RULES,

ORDERS and NOTICES,

IN

The Court of Common Pleas

At *WESTMINSTER:*

From the 35th of King HENRY VI. to *Hilary* Term the 15th of King GEORGE II. 1741.

Carefully Examined by the ORIGINALS;

With proper NOTES and REFERENCES: And a Compleat TABLE to the Whole.

In the SAVOY:

Printed by HENRY LINTOT, (Assignee of *Edward Sayer*, Esq;) for J. Stephens, at the *Hand and Star* in *Fleetstreet*; J. Woxall, at the *Dove* in *Bell-Yard*; C. Ward and R. Chandler, at the *Ship* without *Temple-Bar*; J. Wood, at the End of *Pope's Head Alley* in *Cornhill*; and T. Waller, in the *Middle-Temple Cloysters*. M.DCC.XLII.

RULES,

ORDERS and NOTICES,

IN

The Court of Common Pleas

AT WESTMINSTER:

From the 5th of King HENRY VI.

to Hilary Term the 15th of

King GEORGE III. 1825.

Collected and Digested by

To the Right Honourable

Sir JOHN WILLES, *Kt.*

Lord Chief Juſtice of his Majeſty's Court of Common Pleas,

AND

The Honourable the JUSTICES of the ſame Court,

THIS Collection of RULES, ORDERS and CASES of PRACTICE, is humbly Dedicated by their Lordſhips

Moſt Obedient, and

Moſt Humble Servants,

The EDITORS.

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RULES and ORDERS

OF

The Court of Common Pleas.

Trinity Term the 35th of *Henry* the VIth. 1457.

Bancus Communis.

HEreafter do enſue the good *Ordinances* and *Rules*, made as well by the Kings Juſtices of this ſaid Court of the Commen Place in Time paſt, as by the ſaid Juſtices now being, for the good Rule and Order of this ſaid Court, which ſame now Juſtices do charge and *(a)* command every of the ſaid Officers and Attorneys, ſurely, well and truly to obſerve and keep, upon the Pains limited in the aforeſaid Ordinances.

The Orders following Inrolled in the Term of the *Holy Trinity* in the 35th Year of the Reign of King *Henry* the VIth after the Conqueſt, *Rot.* 494. as it there appears, *John Priſot*, then Chief Juſtice of the Common Bench, and *Nicholas Ayſton*, *Peter Arden*, *Robert Danvers*, *Robert Danby*, *Walter Moyle* and *John Nedeham*, Juſtices of the ſaid Bench.

Memorandum, *That foraſmuch as great Troubles, Subtilties, Falſehoods and Diſceits, have been cauſed and done before this Time in the King's Court of the Common Place, as well for lack of Attendance of the Officers of the ſame Place, as by comers and ſitters within the ſame, that be not ſworn, ne have not to do within there ben certen* Ordynances *made at this* Utas *of St.* John *the Baptiſt in the Year of the Reign of King* Henry *the Sixth after the Conqueſt the thirty fifth, by* John Priſot *Chief Juſtice of the ſaid Place, by the Advice of all the Judges of the ſame, in Form following:*

Prothonotaries and Officers.

1. *Firſt*, That every Prenotarie, Philizer, Exigenter, Kings Clerk, and every other Officer of the ſame Place, ſuch and they and their Predeceſſours have uſed to ocupy their Offices in their proper Perſons, and they or their Deputies ſworn that have uſed to ocupy their Offices by their Deputies, from henceforth attend upon their ſaid Offices in their Places accuſtomed for the ſame, and occupy them in their proper Perſons, upon pain of Forfeiture and leſing of their ſaid Offices. Alwayes forſeen, that if any of the ſaid Officers for Sickncs or other Cauſes reaſonable be licenſed or excuſed by the Chief Juſtice of the ſame Place for the Time being, that he be not prejudiſed by this Ordynance.

2. *Item*, That none of the ſaid Officers or Deputies take upon them to licence or do ſet any Clerk or other in any of their Places, or by them to occupy their ſaid Offices, or for any other Cauſe, without Licence of the Chief Juſtice for the Time being, ſaving ſuch as ben accuſtomed to have their Clerks ſitting by them, that is to weet, everych of the Prenotaries two Clerks, the Clerk of the Streets two Clerks, the Keeper of the Writs or his Deputy one Clerk, upon pain of Impriſonment and making Fine to the King therefore; Nother that ne Man take upon him to ſyt within the ſaid Common Place, that is no Officer that hath no Place within, without leave of the ſaid Chief Juſtice, or Juſtices, upon the ſame payn.

Attorneys.

3. *Item*, That none Attorney, ne none other make any manner of Writ or Proceſs in aney Officers Name of the ſame Place, ſaving only every Officer in his owen Name, ne intro-

myte

(a) Note; *By the Rule of Court*, Mich. 1654. *Sect.* 25. It is further ordered, That all former Rules and Orders not thereby altered, ſuſpended or annulled, be likewiſe obſerved and put in Execution.

mytte in any other Man's Office, ne of any thinge that perteyneth therto, without leave of the Chief Juſtice of the ſame Place for the tyme beinge, or of the ſame Officer in whoſe name he writteth, and the ſame Officer will allow and affirm the ſame, upon payne of Impriſonment, and making Fyne to the Kinge, as is aforeſaid.

Warrants of Attorney.

4. MEmorandum, *For as much as many grete inconveynyences and errers daylie be founden aſwell in the Kings-Benche, as in the Commen Place, for non putting in of Warrauuts of Attorney,* yt is ordeyned and agreed by the Aſſent of all the Juſtices of bothe the ſaid Places, That in every Plee or Ymparlance entred by any Perſon as Attorney in any of the ſaid Courts, that he ſo named Attorney put in his Warraunt the ſame Term of Plee or Ymparlance, under payne of forgoeing the Office of Attorneſhip of that Place, and to be commyt to Priſon, and to make Fyne after diſcretion of the Judges where any ſuch diſceit ſhall happen to fall. *(a)*

5. Hereafter do enſue the Fees belonging to the Prenotaries, Keeper of the Wryts, the Clerks of the Treaſure-howſe, and hys Clerks, and the Phylyzers for comen Proceſſe.

Prenotaries for entres of Plees and Judgments.

IMprimis, for every Comen Declaracyon, comen Plee in Barre, comen Replicacyon and comen Rejoynder in Plees perſonal, whether the Defendant appear in proper perſon or by Attorney, xii. s. ii. d. *(b)* And for every Plee real, ii. s. And for every Plee perſonal pleded by a Serjeant, ii. s. And if it be matter conteynynge a hole Rolle or more, both parties to pay for a Rolle, after the rate of every Rolle, vi. s. viii. d. And for every Judgment or ſatisfaction in Actions perſonal, ii. s. And for every Judgment or ſatisfaction in Actions reall, iiii. s. And for every Exemplification in Writs of Entre upon Vouchers or confeſſion, ii. s. And to the writer of the ſame Exemplification, viii. d. And for every other Exemplification upon a double Voucher, iiii. d. And to the writer of the ſame Exemplification, xii. d. And for every other Exemplification of grete length to take for the ſame after the rate of the length thereof.

Cuſtos Brevium.

6. *IMprimis*, Yt is conſidered, that by reaſon of Writs put in after the day, many men be arreſted, to the grete rebuke of Attorneys, and Sclaunder of the Court, wherefore there is ſet a direction by the Court, that none Original Writ nor *Plur. Cap.* be put in after the laſt day of the Term.

Item, The ſaid Officer ought daily to bring to the Court the bundel of Writs of the Term preſent to be ſeen and occupied by ſuch as have Authority ſo to do, without any thing paying therefore.

Item, for ſeing a bundel of the laſt Term, he ought to have but i. d. *Item*, For ſeing a bundel of every other old Term he ought to have but v. d. *Item*, He ought to have nothing for any Exigent, though it cometh in retorned after the Day, becauſe it is for the Kings advantage. *Item*, He ought to give Attendance in his owne perſon, or by his ſufficient Deputy at all convenient times, that Officers may take out Writs for proceſſe and other neceſſary cauſes, without any money paying therefore. *Item*, He ought to take for the receyt of a hole retorne of one ſhire comeing in after the day, viii. d. *Item*, He ought to take for the retorn of an Exigent retorned utlawed in an old Terme, xx. d.

The Clerke of the Treſourhowſe and his Clerks.

7. *IMprimis*, For Exemplifications and writeing of the ſame, to take therefore as afore hit is limited to the Prothonotaryes, and nothing to be paid for the ſerch yf the parte bring the Nomber Rolle with him. *Item*, For every Record of *Niſi Prius*, ii. s. i. d. *Item*, To the Secondary for writeing and examining of the ſame, iiii. d. *Item*, For a *Sci. fac.* upon a Charter of Pardon, vi. d. *Item*, For a *Superſ.* upon Mainprize, which ſhall not be taken except the Defendant be in proper perſon, ii. s. *Item*, For a Bill of Bayle thereupon, iiii. d. *Item*, For writeing, examining and certifyeing of every Writ of Error, xii. s. i. d. *Item*, For the Fees of a Chartre of Pardon upon an Utlawry vi. s. xi. d. that is to ſay, for the Certificate of the Record, 2 s. 1 d. and to the Warden of the *Fleet*, 2 s. 4 d. and for his favour 20 d. and for the *Sci. fa.* 6 d. and for the Bill of Baile 4 d. *Item*, Officers and Attorneys ought to ſee the Eſſoine Rolles and other Rolls, of old Terms for the aſſurance of their Matters and proces, without any thing therefore.

Philaſter for Commen Proceſs.

8. *IMprimis*, for every *Cap. Pone* and diſtreſſe in Actions of Debt, Detinue, Account and Treſpace of commen Proces, iii. d. *Item*, For a *Cap.* and a *Pone*, or a *Cap.* and a Diſtreſſe in one Writ, in every of the ſaid Actions, vi. d.

(*a*) See *Mich.* 1654. *ſeſſ.* 9, 13. *Hil.* 14 & 15 *Car.* II. *Hil.* 2 & 3 *Jac.* II. (*b*) *Rather* xii d. *or* xii d. ii q.

Orders of Court.

Michaelmas 6 & 7 Eliz. 1564.

De Termino Sancti Michaelis anno regni Elizabethe dei gratia Anglie Francie & Hibernie Regine fidei defensoris &c. Sexto & septimo.

Attorneys.

WHereas all Officers as well in this Court as in all other the Queenes Majesties Courts of Record at Westminster, (*the Prothonotaries only of this place excepted*) *are presently paid their Fees during their Offices, and the Attorneys of late time have been very slack in paying their dutyes to the said Prothonotaries for entring of their Clyents matters, in taking coppyes of the same entryes of their Clerks, and in paying for the same.*

1. It is Ordered by the Justices of this Court, at the requeſt of the ſaid Prothonotaryes, and for the advancement of their Clerks, whereof many by Gods grace ſhall grow good Prothonotaryes hereafter to Serve this Court, That all and every the Attorneys and Clerks of this Court ſholl pay to the Prothonotaryes aſwell all their debts due before the beginning of the Term, as alſo for all their Entryes and proces that ſhall be due this Term before the laſt day of the next Term; And that all ſuch Clerks and Attorneys that now be or hereafter ſhall be, ſhall come and pay to every of the ſaid Prothonotaryes for entring all his and their Clyents matters, in every of their Offices forthwith as heretofore they have done, and if any part thereof ſhall happen to be unpayde in the Term wherein his Clyents matters ſhall be entred, then the ſame Attorney ſhall pay the ſame before the laſt day of the Term next after the Term wherein the matter ſhall be entred, and the ſame Attorney upon Complaint to the Court of his defalt, and his name given to the Clerk of the Warrants by the order of this Court to be put out of the Roll of Attorneys, and no longer to exerciſe the Office of Attorney here in this place. And furthermore, that none of the ſaid Prothonotaryes do permitt and ſuffer any of the ſaid Attorneys to be indebted unto him for any of the Cauſes aforeſaid by any longer time then is above limited, without complaint to this Court to be made as aboveſaid, upon payne of amercement or fine for every Attorney ſo ſuffered by him to be indebted, to be aſſeſſed and imployed at the diſcretion of the ſaid Juſtices. (*a*)

2. *Item*, It is Ordered, That the ſayd Attorneys ſhall Termly take coppyes of the ſaid Prothonotaryes Clerks of every matter whereunto they ſhall appear for their Clyents, And pay for them the fees due for the ſame; And that no coppyes of demurrers nor of any other Matter entred with the Prothonotaryes to be made, but only by the Prothonotarys Clerks, until Judgment be entred. And if any Attorneys ſhall refuſe to take and pay for their coppyes as is aforeſaid, that the ſaid Attorny upon complaint thereof made to this Court, to pay forthwith to that Clerk proveing this Complaint, the Fees, or elſe to be expulſed the Attornyes Roll, and not to be readmitted without a Fine at the diſcretion of the ſaid Juſtices. (*b*)

Rolls.

3. *Item*, That no continuance or diſcontinuance, no Alteration or amendment be made in any Roll of this Court, nor yet any alteration or amendment to be made in any writing going out of any Office of this Court by any Attorny or his Clerk or any other Perſon, but only by the Officer or his Clerk in whoſe Office the ſame ſhall be made or entred, upon pain of Impriſonment, and further to make Fine at the diſcretion of the ſaid Juſtices.

Attorneys.

4. *And foraſmuch as it is thought by the Juſtices, that the Attorneys Fees of this Court are ſufficient Fees for every of them to give his continuall Attendance here upon his Clyents cauſes, and that they being overmuch occupied with ſuits in other Courts, have no ſuch regard nor care of the ſuits here as meete it were they ſhould, and thereby and by their abſence they not only ſlack their Clyents cauſes in this Court, but alſo are cauſes of many Errors and diſcontinuances of the ſame for lack of their good diligence, to the hinderance of their Clyents and great diſorder and trouble of this Court, For the Reformation whereof, and increſe of knowledge in Attorneys in ſuch ſuit as belong to this Court*, It is Ordered, That every ſuch Attorney of this Court ſhall ſatisfie himſelf with the ſuits in the ſame, and forbear to be towards any cauſes as Plaintiff, directly or indirectly in any other the Queenes Majeſties Courts here at *Weſtminſter* other then cauſes touching themſelves, and the purſuit of Proces and writs returnable here, upon payne for doeing the contrary to be expelled out of the Attorneys Rolle of this Court, and further to make Fine at the diſcretion of the Juſtices. (*c*)

Error.

5. *Item, To avoid Shifts and Practices for the delay of Executions*, It is Ordered, The Clerk of the Treaſury ſhall make no certificate or return of any writ of Error to reverſe or affirm any Judgement given in this Court upon

(*a*) *Hill.* 8 *Car.* I. *ſect.* 16. (*b*) *Hil.* 8 *Car.* I. *ſect.* 12. (*c*) *Mich.* 15 *El.* 1573.

upon a Verdict or demurrer in Law; untill ſome manifeſt pregnant Error therein be notified by the Party or ſome of his Councell that ſueth the writ of Error, unto the Juſtices of the Bench, or to one of them at the leaſt. *(a)*

James Dyer, *Richard Weſton*,
Anthony Breim, *John Welch.*

Eaſter 9 Eliz. 1567.

REformatio omnium & omnimod. Falſitatum, Contempt', Miſpriſionum, ac aliarum Enormitatum Officiariorum, Clericorum, Attorn', ceterorumq; Miniſtrorum Curie Domini Regine de Banco apud Weſtm. per Jacobum Dyer *Militem Capitalem Juſtic. ejuſdem Curie & Sociis ſuis Juſtic. ipſius Domine Regine ibidem de Termino Paſche Anno Regni Domine* Elizabethe *nunc Regine Angliæ poſt Conqueſtum nono.*

ELizabetha Dei gratia Angliæ, Franciæ & Hiberniæ, Regina fidei defenſor, &c. Cuſtodi Palacii noſtri Weſtm. ſalutem. Præcipimus tibi quod Ven. fac. coram Juſtic. noſtris apud Weſtm. die Lune prox. ante Feſtum Sancti Georgii *duodecim tam Officiarios in Banco coram Juſtic. noſtris apud Weſtm. quam de aliis Clericis & Attorn' in eodem Banco exiſten' ad inquirend' de & ſuper omnimod. falſitatibus raſuris contemptibus miſpriſionibus & aliis Offenſis in eodem per quoſcunq; perpetrat'. Ac ad ulterius faciend' quod Curia noſtra tunc ibidem fore viderit faciend'. Et habeas ibi nomina prædictorum Officiariorum Clericorum & Attorn' & hoc breve. Teſte* J. Dyer *apud Weſtm. duodecimo die Februarii Anno Regni noſtri nono.*

Whetley.

Chriſtoph. Hole, *Willielmus Read*, *Tho. Foſter*, *Rolandus Durant*, } Jur' { *Geo. Harriſon*, *Will. Brand*, *Joh. Jackſon*, *Will. Rudd.* } Jur'

Thomas Cobb, *Will. Badger*, *Will. Forreſt*, *Thomas Freeman*, } Jur' { *Joh. Franklyn*, *Joh. Walmer*, *Will. Drewe*, *Joh. Ford.* } Jur'

The Lord Chief Juſtice his Charge to the Inqueſt.

YOU Officers, Clerks and Attornyes ſummoned to be of this Inqueſt, Forſomuch as it is very expedient and neceſſary ſometime to have an Eye to our Officers and Miniſters; and to look upon this our Court for the Maintenance and preſervation of the good order, courſe and antient Cuſtomes of the ſame; And for that I find divers and ſundry Records left unto us by our Anceſtors that leadeth us unto the ſame; And becauſe as *Chawcer* very well ſaith in his Treatiſe *de Melibea & Prudentia*, That the Judge that ſeeth faults and winking at them, doth not correct ne puniſh the ſame, doth as it were by his ſufferance provoke and ſtirre ſuch Malefactors to be faulty again, and to continue in their former evil doeings: Therefore it was thought good now at this time by me and my Brethren to call you together.

And albeit ſince the time I have ſit here you have not had the like Inqueſt; yet you have not failed at divers and ſundry times (as occaſion ſerved) of divers Monitions and Adhortations which tended to the ſame end, and ſerved for the ſame purpoſe.

And amongſt all other Courts and places of Juſtice within this Realm, this Court hath been ever reverenced and had in great Eſtimation, and hath belonging unto it more Officers then any other Court hath; And therefore many times moſt faults, errors and negligences are found in it; for where the greater number is, there ever for the moſt part are the moſt faults and miſdoeings (ſuch is our frailnes) what ſhould be the very and true cauſe of it I cannot tell, except it be as *Terrence* ſaith, *Mala mens, malus animus*, which as two Spirits and Furies of Hell, the common ſtirrers up of all vice and naughtines, provoke and pricke men forwards to do all evil; or whether it be this greedy and inordinate deſire to be ſuddenly inriched, that men cannot abide and tarry time and ſpace, but in all poſt haſt muſt be rich, and have abundance by and by; This poſting and haſting, and running after Riches, this great thirſt and covetouſneſs is reproved and condemned as moſt deteſtable of the verie Gentills, and Heathen Poets.

For it is called of them, *Amor ſcleratus habendi*, the which for the wickednes that is in it, is called, *The wicked deſire of growing rich*; be the riches gotten by hoocke or crooke they care not how, *Per fas aut neſas*.

Another ſpeaketh unto Riches, and ſaith, *Quid non mortalia pectora cogis auri ſacra fames?* Thou wicked deſire and hunger of gold to what draweſt thou not men, and what compelleſt thou not man to do? And St. *Paul* ſaith that it is the very root and ſpring of all Evil, *Cupiditas* (ſaith he) *eſt radix omnium malorum*; For as all things do ſpring and are nouriſhed from their roots, ſo where this wicked root is laid and hid, from thence ſpringeth moſt wicked fruit, and all manner of Evil.

This Writ that you ſhall enquire upon maketh mention but of four Points in ſpeciall, in generaltie of more; The firſt of them is, that you

(a) See Eaſter 23 Eliz.

you ſhall inquire *de omnibus falſitatibus*; the ſecond *de raſuris*; the third *de contemptibus*, and the fourth *de Miſpriſionibus*. You that ſhall inquire of them, ſome of you are *Officiarii*, ſome *Clerici* that write in Offices, and moſt of you Attorneys.

You are the perſons allowed by the Law to inquire of theſe things, you beſt can for your Vocations and Knowledge, and according to the form of the antient Records you are now appointed to the ſame; I doubt not but that you will conſider your duties herein, remembring how good and honeſt a thing it is for you and us all that are Members and partyes of this Place, how neceſſary and profitable for all Suitors to have this our Court purged and kept cleane from all ſuch corruption, falſe and ſubtle dealings, Errors, negligences, &c. ſoe yee ſhall ſerve very well the Common Weale, and our Prince, and above all pleaſe God.

I will not charge you with all ſuch faults as have been done long ſince, for we have had the Queens General Pardon that hath pardoned all Contempts, Diſceipts, Negligences, &c. But onely with ſuch Faults as have been done ſince the Pardon, that is, the ſix and twentieth day of *September* or three days before *Michaelmas* laſt: And ſomewhat to open unto you the Points;

1. You ſhall underſtand that *Falſitas* as I take it, is where a man outwardly will ſet a ſhew, a face and countenance that he doth well, and truly knowing inwardly and to himſelf that it is not ſo, but meere ſubtlety and falſhood: As for Example, if he will ſue forth of purpoſe falſe proceſs, or wittingly of himſelfe will Miniſter a falſe and forreign Plea, not takeing it of his Clyent. There is nothing more contrary to Juſtice then is Falſhood and Deceit.

2. The ſecond Point is *de Raſuris*, and of Raſures you ſhall underſtand that there are two kinds, the one kind lawful and tolerable, as when the Clerks before the Rolls be put in, will for the amending and makeing perfect of the pleadings raſe the Roll, or for putting out of blots; and theſe Raſures are ſomewhat to be born with, for that many of the young Clerks are not ſo perfect, but that ſometimes in their writeings they ſhall miſſe and faile; I was ſometime a Clerke my ſelfe, and therefore I do know the experience of it.

Another kind of Raſures there are noxious and hurtful, as to raſe and alter the Rolls after they be put in and filed in the chiefeſt and moſt principal parts, by the which they change and pervert them quite, and cauſe them to carry another or contrary ſence, and to ſubvert the whole matter, and to chop and change in new Writs, and new Rolls when the old are loſt; which if it be told us, then we may licence them to put in new, but they may not of themſelves.

A Record is a Witnes of the truth, and of the time of much longer continuance then any man is, and therefore they have been ever moſt charely and warily kept and looked unto; they give light and warily kept and looked give light unto poſterity, tell them of things done long before; And in doubts and controverſies inſtruct them with the truth; The law termeth them *Theſauri*, that is to ſay Treaſures or Jewells, and calleth the place where they are kept, *The Treaſury*, that is to ſay, the houſe of Treaſure; ſuch is their worthines, their dignity: And therefore every man ought to take heed how he uſeth them, after what ſort he dealeth with them; they are true and juſt, and may not be touched and defiled with falſe and unjuſt hands. This thing was very well conſidered in *Henry* the Sixths time, who enacted in the *(a)* eighth year of his Reigne, That to alter, raſe, imbeſell any writ, Record, &c. after that it was filed and put in, ſhould be Felony, and inquirable in this Court.

3. Your third point is *De contemptibus*, that is, of ſuch as contemne and breake our Orders and Rules, and will not obey the Orders of this Court; Within this are not only Officers, Clerks, and Attorneys contained, but alſo any other Stranger that contemneth the ſame; As wee read of a contempt done to this Court in the two and twentyeth yeare of the Reigne of King *Henry* the Sixth, Where a Squier belonging unto the Kings Court did beat here at *Weſtminſter* an Attorney for being againſt him, and erneſt in his Clyents cauſe, he was indited here in this Place for it, found guilty, and paid forty pounds for a Fine.

4. Your fourth point is *Miſpriſion*, and you ſhall underſtand that *Miſpriſion* is where a man knoweth Treaſon or Felony to be done, and yet doth conceale it, and keep it cloſe; For men are not only bound by the Law to doe noe ſuch thing themſelves, but alſoe bring them to light and diſcloſe them in others, and ſo to further their puniſhments. There are divers kinds of *Miſpriſions*, ſome of Treaſon, ſome of Felony, ſome for uttering of falſe Coine, if he knows it to be falſe.

And another kind of *Miſpriſion* there is, where a man drew his dagger at a Judge ſitting in Seate of Judgement, for the which he forfeited all his goods and lands and had his right hand cut of. Theſe *Miſpriſions* are puniſhed by diſcretion and Fine, and never by death.

The *Miſpriſion* you ſhall inquire of is *Miſpriſio Clerici*, and much of the nature of that *Miſpriſion* that we read in 2 R. II. was found by a Juſtice of Peace, who among the Inditements that were indorſed *bille vere*, had foiſted in one Inditement that was not indorſed *bille vera*, he loſt his place of Juſtice of Peace, and paid Fine.

Soe to put in writs not ſealed, and by that meanes to beguile the Queene; Albeit this

(a) *Cap.* 12. *and* 8 *R.* 2. *cap.* 4.

alsoe may be put under the first Member, that is falsehood. Also if any leave out or change the Addition or names of the Partyes to cause Error, *&c.* or put in or leave out whatsoever pleaseth them. Alsoe the statute of *Westminster* (*a*) the first maketh mention of Pleders, and how they are inquirable of.

The cause of these faults and errors many of them doe arise by reason that the Clerks doe not diligently examine their writeings and Rolls; they will take money, but they will not take paines to looke backe to that they have done, that it may come well and truly out of their hands.

And when Error is found here in this Court, it is a great greife to us that sit here to have things not done truely sincerely and as they ought to be done, to see our Acts, determinations and Judgements adnihillated and brought to nought, our Court slandered and evill spoken of, our cares and labours made void and frustrate by the onely negligence of Clerks and Ministers, and the poore man and Clyent that hath suffered this harme and losse, he getteth him home with a heavy heart by weeping Crosse, and cryeth *oleum et operam perdidi*, I have lost my labour, my money, my cause, all is lost, what shall I now doe; Then he beginneth to thinke evill of us that are Judges, and to suspect our Skill, then he curseth his Councellor and Attorney, and speaketh evil of the Law, which of it selfe is most just: In which cases we cannot, nor may not of very right and Justice but cause such negligent Attorneys to restore unto their Clyents their Costs and Charges. Of these and other like negligences generally; And of such as be late and slack comers to the Term by reason whereof their Clyents matters goe not forwards, you shall further inquire, and wee shall deprive such of their Attorneyship. I will appoint you noe time certain, but that you may doe it at your leisures in time convenient between this and *Michaelmas* Term; if you will have such as shall give Evidence to be sworne, we shall find the meanes they shall be sworne: And this is all I have to say to you at this time.

Mich. 15 Eliz. 1573.

ORders convenient and necessary for Reformation of certain Abuses and Defects in Officers and Ministers attendant, and belonging to the Court of the Common Place, *set down by the Justices of that Place.*

Termino Sancti Michaelis, Anno decimo quinto Regni Regine *Elizabethe.*

Attorneys.

1. *First*, That every Attorney of this Court shall give his attendance at the Court by the second Retorn of every Terme, saving only *Michaelmas* Terme, and that Terme by the third Retorne at furtheſt, upon pain to forfeit to the Box for every such offence 3 s. 4 d. unles he shall have a reasonable Excuse well proved. (*b*)

2. *Item*, That no Attorney of this Court shall give, let to rent, or lend his name to any person or persons thereby to practice as an Attorney, nor shall willingly, wittingly or fraudulently permit, and suffer any person or persons to use his name for any Appearance or otherwise, Except in common Recoveries, upon pain to forfeit for the first offence xx s. and for the second such Attorney and Practizer to be expulsed the Court.

3. *Item*, No Attorney shall sue any processe, in any reall Action or *Recordare*, nor any Clerk shall make any processe, unless the Original Writs thereof be first taken out in the Remembrance of the Philizer of the same where the Action shall be commenced: And the same Philizer or his Clerk only to make the processe thereof, upon pain for every such Attorny or Clerk to pay such Fine as the Court shall Award.

Sheriffs Deputies.

4. *Item*, That according to the ancient Custome of this Court, no person shall be admitted as a Deputy of Record unto any Sheriff, unless he be an Officer or Attorny of this Court; And that one of the Deputies of Record of every Sheriff shall be resiant or conversaunt within his Sheriffwick, except *London*, *Middlesex*, and other Cities and Towns that be Counties, *Wales*, and the County Palatines of *Durham*, *Lancaster*, and *Chester*; And that one of the said Deputies shall be Attendant upon this Court by the second Retorn of every Term at the furtheſt: And so to continue to the end of the Term, upon pain as is last aboveſaid, all reasonable excuses of absence to be allowed.

5. *Item*, That no person or persons shall return any Writ of Entry in the *Post* for a Common Recovery to be had, or Writ of Covenant for a Fine to be Levied, or any other processe for the which, Fees do belong to the Under-Sheriff, or the Sheriff's Deputies, unless they pay the old accustomed fee for the same, and the same Writ to be assigned by the Under Sheriff or one of the Deputies as is aforesaid, upon pain to forfeit for every such default, x s.

6. *Item*, That every Attorny, Clerk or other person that shall sue forth any Recovery, and use any Attornyes name in the same, shall pay to the same Attorny whose name shall be used, the accustomed fee, or otherwise satisfie the

(*a*) *Stat.* 3 *Ed.* I. *cap.* 29. (*b*) *E.* 12 *Ja.* I. *Mich.* 1654. *Sect.* 1.

the ſame, upon pain to pay for every ſuch default as is aboveſaid, vi s. viii d.

Sheriffs.

7. *Item*, That all Sheriffs, Under-Sheriffs, or Sheriffs Deputies, ſhall retorne all Writs and Common proceſſe that ſhall be delivered to their hands, or of Record, and deliver them or ſend them returned into this Court within eight dayes next after they be retornable, upon pain of every ſuch Sheriff or Under-Sheriff that ſhall offend, to pay as aboveſaid, xl s. at the leaſt. (*a*)

Suits.

8. *Item*, That no Officer or Clerk of this Court ſhall either receive, make or deliver any manner of Writ, Proceſſe, Record of *Niſi Prius*, or Warrant of Attorney, of, to, or for any perſon or perſons to enter any matter or matters, unleſs the party himſelf his Attorny or his Attornyes Clerk well known, or ſome other Attorny for him or in his name, do Orderly deliver or procure and ſue forth the ſame, upon pain to every Officer or Clerk for every ſuch default to pay as is aboveſaid, xl s. (*b*) And that no Attorny, Attornyes Clerk, no Officer or any other Clerk of this Court, ſhall ſue forth or procure by any means directly or indirectly any *Latitat*, or ſhall ſolicit, proſecute or follow for the Plaintiff, or plead to any Action, Bill or Suit upon any ſuch proceſſe of *Latitat* in any other Court then in this Court, upon pain to forfeit for his firſt Offence xl s. and for the ſecond *ipſo facto* to be expulſed the Court. (*c*)

Provided alwayes, That the Lord Chief Juſtice of this Court, and every Juſtice of Aſſize having a Circuit, may appoint ſuch and ſo many of his and their Clerks to ſue forth Fines and Recoveries of their own drawing as to them ſhall ſeem meet and convenient, ſo that the Fees of the Retorns thereof be duly paid or ſatisfied to the Sheriffs Deputies accordingly.

Prothonotaries Clerks.

9. *Item*, That no Prothonotaries Clerk being an Attorny ſhall draw up any Paper or Book of the Office where he is a Clerk, wherein ſhall be any ſpecial pleading, and in which matter the ſame Clerk ſhall be Attorny with the Plaintiff or Defendant, Demaundant or Tenant, without the aſſent of the other party or his Attorny, upon pain to forfeit as is aboveſaid for every default, xl s.

Attorneys.

10. *Item*, For Reformation of the Exceſſive and unprofitable number of Attorneys of this Court, *It is Ordered*, That all ſuch Attorneys as have been abſent, and not given their due Attendance here according to their Oath, or that have not been towards any cauſe or matter in this Court for the ſpace of two years laſt paſt, ſhall be put out of the Rolle. And the like Order to be kept hereafter. (*d*)

Sheriffs Fees.

11. *Item*, That no Sherriffe, Under-Sheriff or Secondary, ſhall take for the allowance of any *Superſedeas* upon any *Capias* or *Exigent* above xii d. upon pain to forfeit for every ſuch default x s.

Officers Fees.

12. *Item*, That no Officer or Clerk of this Court ſhall take for any Entries, Proceſſe or Search, above the old accuſtomed Fees, but of the Benevolence of the Party his Attorny or Deputy, upon pain for every ſuch default as is aboveſaid Ten ſhillings.

13. *Item*, That no Officer of this Court ſhall take or receive of any Attorney of this Court for any Proceſſe, Search, or entry of any proces, plea or matter, commenced or proſecuted in his or their own name or names, any manner of Fees, but as of old time hath been accuſtomed, unleſs the Court for ſome ſpeciall cauſe otherwiſe Order it.

Attorneys.

14. *Item*, That no Attorney ſhall be Admitted or put in to be Attorny in the Record of *Niſi Prius*, but ſuch as are Attorneys in the ſaid Suit by the principal Record thereof; And that no Attorny of this Court ſhall appear as Attorny for the Plaintiff at any *Niſi Prius* but out of this Court only.

Venue.

15. *Item*, That no Attorney here, proſecute or ſue any forrein proceſſe by Original or other proces in any perſonal Action, other then Actions of Debt only, but in the proper Shire where the cauſe of Suit ſhall grow and ariſe without Licence of this Court, upon pain of forfeiture for his firſt Offence forty ſhillings, and diſability and expulſion for his ſecond Offence. (*e*)

James Dyer,
Roger Manwood.

Mich. 15 & 16 Eliz. 1573.

Writs, Preces and Entryes to be made by the Philazers of this Court only.

De Termino Sancti Michaelis Anno Regni Regine Elizabethe decimo quinto & decimo ſexto in Communi Banco.

FIrſt, All manner of *Capias*, *Alias* and *Pluries*, and all other incident proces before appearance of the Defendant in all Actions wherein proces of Outlarie do lye.

Item,

(*a*) *Hil.* 8 *Geo.* I (*b*) *Mi.* 6 & 7 *El.* (*c*) *Hil.* 8 *Car.* I. *Sect.* 13. (*d*) *T.* 24 *El. Sect.* 9. (*e*) *Mich.* 1654. *Sect.* 8.

Item, All grand *Cape's*, *Pones* and *Distringasses*, as well peremptory as infinite grounded upon any Original.

Item, All Writs of *Superſedeas* upon any *Capias* awarded out of their own Offices.

Item, All Writs of *Retorn' habendum* upon Nonſuits before appearance, Writs of ſecond deliverance before appearance and Declaration, Writs of *Capias* in *Withernam*, *Alias* and *Pluries*. (*a*)

Such Entries and Proces as Philazers as well as Prothonotaries may make.

FIrſt, the Views in Pleas reall, and Writs upon the ſame.

Item, Imparlance upon plain and common Declarations in Plees perſonal or mixt, and alſo the General Iſſues *ad Patriam* in ſuch Actions, and all *Venire faciases* upon ſuch general Iſſues.

Item, In Debt *Non eſt factum*, General or Special, ſo as it needeth not a Serjeant's Councel, *per minas*, *per duritiam impriſonamenti*, *Deins age*, *Riens per diſcent*, Releaſe or acquittance of the Plaintiff, whereunto *Non eſt factum* is pleaded, condition performed, ſo as it doth not require a Serjeants Councel, *Plene adminiſtravit*, *Ne Unques Executor*. (*b*)

Item, In Treſpaſs *Non culpabilis* general and *Non culpabilis ad Novel aſſignement*, *ſon Frank-Tenement et inſult. querent. propriis*, and in Actions upon the Caſe the general Iſſue, and all *Venire faciases* upon ſuch Iſſue, and to deliver them of Record if the party pray it, and continuance upon the Plea Roll until the *Habeas Corpora* awarded.

Item, The Fee of every Four-penny Writ to be increaſed and made Six pence, ſo that the Original Writ with the Retorn thereof be duely taken out in the Remembrance, and otherwiſe not.

James Dyer,
———*Richards*,
Roger Manwood.

Eaſter, 23 Eliz.

(*c*) *Additio de Termino Paſche Anno Regni dicte domine Regine nunc viceſimo tertio*, 1581.

Error.

IT is ordered by the Juſtices of this Court *for the avoidtng of deleyes of Execution* that the Clerk of the Treaſury for the Time being ſhall not make any *Superſedeas* upon any writ of Error to reverſe or affirme any Judgment given in this Court upon any verdict, demurrer in law or confeſſion untill ſome manifeſt or pregnant Error therein be notified by the Party or ſome of his Councel that ſueth the Writ of Error, unto the Juſtices of the Bench, or to one of them at the leaſt. (*d*)

James Dyer,
Francis Wyndham,
Thomas Meades.

Trin. 24 Eliz. 1582.

Orders convenient and neceſſary ſet down by the Juſtices of the Common Pleas, *the* 22*d. of* June, *Termino Sancte Trinitatis*, *Anno viceſimo quarto Regine Elizabethe.*

Bail.

FIrſt of all, Actions perſonal, where the debt and damages amounteth to Twenty pounds or above, the Defendant upon any *Capias* returned againſt him *Cepi corpus* or *Reddidit ſe* making appearance in proper perſon ſhall put in good Bayle, that if he be condemned, to anſwer the Condempnation, or to yield his Body to Priſon, or the Sureties to pay it for him, (*e*) and the Bayl to be taken in ſuch Office from whence the Proces upon which the Defendant ſo appeareing did yſſue, and in none other; and for the ſame bayle the Defendant to pay the auntient Fee two ſhillings four pence; (that is to ſay) for the Fee of the Juſtices of the ſaid Court for examination of the ſufficiency of the ſaid Bayl, two and twenty pence; and for the Fee of the Officer takeing and entring the ſaid Bayle, ſix pence; and that in all other Actions perſonal where the debt or damages doth not amount to Twenty pounds, the Defendant to be admitted to Common Bayle to be taken and entred only by the Officer from whence the Proces upon which the Defendant ſhall ſo appear did iſſue, and by none other, for the Fee of four pence only to be paid for taking and entring of the ſame common Bayle.

And that no Attorney ſhall ſue forth any *Superſedeas* upon any *Capias* to be awarded out of this Court after the ſaid *Capias* is delivered to the Attorney of the Plaintiff, unleſs ſuch Attorney that will ſue forth any ſuch *Superſedeas* do cauſe Bayl to be firſt put in for the Defendant to anſwer and ſatisfie the Plaintiff as aforeſaid.

Philazers.

And that alſo the Philazers ſhall and may enter in their Offices the Declarations and Imparlances of all ſuch matters for which Bayle ſhall be taken as is aforeſaid, if the Plaintiff or other Attorneys willingly without compulſion will have them entred with them. (*f*)

2. *Item*,

(*a*) *Mi.* 14 *Ja.* I. (*b*) *Trin.* 24 *Eliz.* (*c*) Note, This Rule is inſerted in the Margent of the Rule *Mich.* 6 & 7 *Eliz.* (*d*) *Mich.* 6 & 7 *Eliz.* *Trin.* 24 *Eliz. Sect.* 4. (*e*) 5 *W.* & *M.* 1692. (*f*) *But ſee Mich.* 14 *Ja.* I. *reg.* 2.

2. *Item*, The ſaid Philazers ſhall not enter any manner of Judgment in their Offices the Judgement in Replevin before appearance whereupon a *retorno habend.* is to be awarded, and likewiſe the Judgement in dower and Formidons by default before appearance whereupon the writ of ſeiſin are likewiſe to be awarded only excepted; ne call upon any Imparlance, nor give any Rules in their Offices for anſwers, nor ſhall enter any iſſues with them but only theſe following, *videlicet*, *Non eſt factum*, *nil debet per Patriam*, and *non culpabilis* generall in treſpaſs, and *non culpabilis ad novel aſſignment*, any former order heretofore in any wiſe notwithſtanding. And the Prothonotaryes ſhall enter the comparence upon *Cepi corpus*, and *Redidit ſe*, as in times paſt they have accuſtomed to doe.

Writs of Privilege.

3. *Item*, That no writ of Priviledge be granted out of the ſame Court neither in Terme nor out of the Terme, without ſome one of the Juſtices hand thereunto, for the fee of four pence and noe more to the Juſtices for every ſuch writ.

Outlawry. Error.

4. *Item*, If any perſon (which from henceforth ſhall be outlawed in any action perſonal before appearance and Judgment) doe purſue any writt of Error thereupon, the ſame writt of Error ſhall not be allowed, nor any Record removed, nor any writ *de non moleſtando* or *Superſedeas* granted before ſome manifeſt Error be ſhewed to the Court if it be in the Term time; and if it be in the time of Vacation, then to ſome of the Juſtices, and by them allowed. (*a*)

Fines and Recoveries.

5. *Item*, None but Attorneys of this Court or Juſtices Clerks ſhall ſue forth any Fines or Recoveries, upon payne of forty ſhillings fine, and to be committed to the *Fleet*. (*b*)

And that no Officer of this Court ſhall ſuffer any ſuch to deale in any ſuch cauſe in any of the ſaid Offices, upon ſuch payne, and likewiſe to forfeit forty ſhillings.

Attorneys.

6. *Item*, That noe Attorney of this Court ſhall ſuffer or aſſent to any other being noe Attorney of the ſayd Court to practice in his name, upon payne to be forejudged the Court, and committed as is aforeſayd, and the party practiſing in the Name of any ſuch Attorney contrary to this Order, to be committed and pay forty ſhillings for a Fyne for every ſuch offence, and that noe Clerke of any Prothonotary other then ſuch as have exerciſed the roome and place of a Clerke by the ſpace of ſeven years laſt paſt ſhall occupie or uſe the Roome and Office of an Attorney in this Court, and that no Clerk or ſervant of an Attorney ſhall write in any Office of Prothonotary, upon the like payn and puniſhment aforeſaid.

7. *Item*, That no Attorney be from henceforth made but once in the year in *Michaelmas* Term upon a meeting of the Juſtices for that purpoſe; and the firſt meeting for that purpoſe to be at *Michaelmas* Term come twelve Month, and not before.

Bail.

8. *Item*, That no Attorney of this Court ſhall be bayle for any man upon proces awarded out of this Court, upon payn of being forejudged the Court. (*c*)

Attorneys.

9. *Item*, That if any Attorney of this Court ſhall abſent himſelf two Terms together from the ſaid Court, except it be by occaſion of ſickneſs or otherlike Urgent cauſe to be allowed of by the Court, then he to be forejudged the Court, and to be no longer an Attorney thereof. (*d*)

Officers.

10. *Item*, That no Officer of the Common Place ſhall ſuffer any men to put any Attorneys name to his Remembrances, except he be the Attorney himſelf, or his Clerk well known.

Seal Office.

11. *Item, Whereas before this time divers of the Attorneys of this Court have uſed immediately after the end of every Term to depart and leave the ſuing out of their Meane proces*, videlicet, Capias, alias Capias, *and* Pluries Capias *to other perſons, who not being ſworn for their true dealing, have many times delivered proces to the* Cuſtos brevium, *Philazers and Exigenters of this Court and their Clerks unſealed, although ſometimes giving a colour thereof, to the defrauding of the Queens Majeſty of her duty ariſing by her Majeſties Seale of this Court*, Wherefore, *It is Ordered* by the Juſtices of this Court, That the *Cuſtos brevium*, his Deputy or Clerk, or any of them from henceforth ſhall not receive any proces of any Exigenter Philazer, Attorney or their Clerk, or any of them except the ſame proces be at ſuch delivery thereof apparently ſealed with the Queens Majeſties ſeale of the ſaid Court; And further, That any Philazer or Exigenter of this Court, or any of them, or the Clerkes of any of them, ſhall not from henceforth take any proceſs of any perſon or perſons to the intent to take out the ſame proceſs in their remembrances or to File the ſame with the *Cuſtos brevium* unleſs the ſame proceſs be delivered unto them apparently ſealed, upon ſuch pain and penalty as ſhall be inflicted upon

(*a*) *Eaſt.* 23 *Eliz. Trin.* 28 *Ca.* II. *Mi.* 6 *Geo.* II. *reg.* 6. (*b*) See *Eaſter* 43 *Eliz.* (*c*) *Mich.* 1654. *Sect.* 1. *Mi.* 6 *Geo.* II. *reg.* 5. (*d*) *Mich.* 15 *Eliz. Sect.* 11.

upon every offendor herein by the Juſtices of this Court. (*a*)

Writs of Error and Certiorari.

12. *Item*, That all writs of Error and of *Certiorari* directed to the Chief Juſtices of the Common-Pleas for the time being, ſhall be firſt delivered to him before they be broken, or elſe no Record forth of this Court ſhall be removed or certified.

Easter, 43 Eliz. 1601.

An Order made the ſecond day of May *this preſent Term of* Easter, *in the Three and fortieth year of the Raign of the Queens Majeſty that now is.*

Concerning Writs of Dedimus Poteſtatem.

WHereas by the antient uſuage grounded upon the Lawes and Statutes of this Realme, there was in every Writ of Dedimus Poteſtatem *to take the knowledge of any Fine, a Knight or a Serjant at the Law named and ment to be of the* Quorum, *unles the knowledge were taken by ſome of the Juſtices at* Weſtminſter, *or of the Barons of the Exchequer being of the Coyfe; which antient uſuage was duly obſerved until about thirty years laſt paſt, ſince which time ſuch* Dedimus Poteſtatems *have been commonly directed to perſons of mean calling; and although a Knight were named therein, yet it was but* pro forma tantum, *and he never ſealed unto it, but the knowledge taken by the reſt being for the moſt part men of mean calling, and commonly unlearned, and unskilful in ſuch cauſes, by reaſon whereof the great and reverent ſolempnity which ought to have been inviolably obſerved in Fines is neglected. The ſaid Fines levied with Proclamations being the higheſt Barrs and Records of greateſt power and force, binding as well privies as ſtrangers, unles they make their claym in due time; And yet the ſaid Fines by ſuch means are abuſed, and knowledge of Infants and Women Coverts not duly examined, Idiots and ſuch like other perſons have been taken and certified by ſuch Commiſſioners: And ſo it was this preſent Term of* Easter, *in the Three and fortieth year of her Majeſties Raign, provided in open Court by oath in a Fine taken by ſuch Commiſſioners in the County of* Lincoln; *and divers of the like ſort have been certified, as it was this day alſo teſtified by the Clerk of the Fines; which abuſes and diſorders are very common and great, and meet in Juſtice to be reformed.*

Therefore to prevent ſuch great inconveniencies, and to the intent that Fines may be taken by men of credit and reputation according to the Law and Cuſtoms of this Realm;

It is this day Ordered, That from and after the ſecond Return of *Trinity* Term next enſuing, no *Dedimus Poteſtatem* directed to Commiſſioners to take the knowledg of any Fine, ſhall be received or recovered in this Court, unleſs the ſame knowledge be taken by ſome of the Juſtices of the one Bench or the other, or of the ſaid Barons of the *Exchequer*, or Serjeant at Law, or that a Knight be of the *Quorum*. (*b*)

Fines.

2. *And becauſe many Errors, faults and abuſes have been and daily are committed in ſuing out of Fines, by reaſon that many unskilfull perſons and ſuch as were never brought up in this Court nor belonging to the ſame, do take upon them to ſue out Fines; And that if any ſuch abuſes, faults or Miſdemeanors doe happen touching the ſame through their Negligence or default, no reformation or puniſhment can be had they being perſons unknown.*

It is therefore further Ordered, That no Fine or *Dedimus Poteſtatem* ſhall be received or recovered in this Court, unleſs the ſame be ſued out by ſome of the Attorneys of this Court, or Clerk of ſome of the Juſtices of Aſſize, and ſubſcribed with the name of ſuch ſaid Attorney or Clerk, to the intent if any Miſdemeanour be committed, they may be called to anſwer it. (*c*)

E. Anderſon,
Tho. Walmyſley,
Peter Warburton.

Orders of Court.

——, 2 Ja. I.

Orders ſet down to be obſerved in this Court, Touching purſuits upon Penal Lawes.

1. FIrſt, That Special care be taken that no Proces be ſuffered to be ſued forth upon any Information againſt any penal and popular Statute, before the Information exhibited, according to the Statute of *Anno* xviii. (*d*) of the late Queen; And that the ſaid Information be ſet on the file.

2. *Item*, That the Information once ſet on the file, be not after taken thence.

3. *Item*,

(*a*) *Mich.* 1654. *Sect.* 6. (*b*) Rules relating to Fines, *Hil.* 14 *Ja.* I. *Hil.* 28 & 29 *Car.* II. *Eaſt.* 29 *Ca.* II. *Eaſt.* 6 *W.* III. *Eaſter* 9 *Anne.* (*c*) *Trin.* 24 *Eliz. Sect.* 5. (*d*) *Cap.* 5. *Stat.* 29 & 31 *Eliz. cap.* 5.

3. *Item*, That the very day of the exhibiting the Information, be ſet on the back-ſide of the Information; And that the Informer exhibit the ſame according to the ſaid Statute; And that the Informer's Name, and the Statute on which the Information is grounded, be indorſed on the back-ſide of the Proceſs.

4. *Item*, That the Informer purſue his Suit without any unneceſſary delay, or any practice to defraud the due execution of the Statute upon which he Informeth: And if any do offend in any thing contrary to the Statute of xviii. or xxxi. of the late Queen *Elizabeth* concerning Informers, That in every ſuch caſe the offender be puniſhed according to the true meaning of theſe ſeveral Statutes.

5. *Item*, That no Licence to compound upon any penal Statute ſhall be given, nor Compoſition made but in open Court, and both the Informer and Defendant to be preſent; And that not to be done but that the Informer ſhall ſet down upon his Oath what he will take; And that he hath not taken, nor will take any more.

6. *Item*, That at the end of every Term ſome honeſt and diſcreet Clerk for that purpoſe to be aſſigned by the Court, ſhall ſee and make Report to the Court what Informations or Suits upon Penal Lawes be depending, and how they are proſecuted, and whether any default or fraud be in any Informer in proſecuting his Information, whereby the Court may take order for his puniſhment in that behalf according to the Law. *

(a) *Edm. Anderſon*,
(b) *Peter Warburton*,
(c) *Will. Daniel*.

——, 6 Ja. I.

An Order concerning the bringing in of Rolls.

THis Rule being further enforced by a Rule made *Eaſter* the *5th. W. & M. reg.* 2. it is here omitted, and the Reader thereto referred.

Easter, 11 Ja. I. 1613.

De Termino Paſche Anno Regni Domini Jacobi nunc Regis Anglie, &c. undecimo et Scotie quadrageſimo quinto.

Entering Judgments.

WHereas of antient time no Judgments of this Court either by Non ſum informatus, *or* Nichil dicit *could be entred of Record in this Court, without the Notice and Commandment of the Judges of this Court, nor any Coſts of Suit given upon any of the ſaid Judgments before the Coſts were taxed and allowed of by ſome of the Judges of this Court; which uſeage continued a long time, until it pleaſed this Court to depute and appoint the Prothonotaries of this Court to take order for the entring of all ſuch Judgments, before ſuch Judgments were entred of Record: Sithence which time Attorneys of this Court being alſo Clerks in the Prothonotaries Offices, have entred many of the ſaid Judgements without the Warrant of any of the Prothonotaries or Judges, and have alſo entred great and exceſſive Coſts upon the ſaid Judgments at their pleaſures, which were never rated or taxed by the ſaid Prothonotaries, nor any Judge of this Court, to the great wrong of many of his Majeſties Subjects, as hath appeared by many Complaints: For Reformation of which Abuſes,*

It is Ordered, This preſent Term of *Eaſter*, That no Clerk or Attorney of this Court, ſhall from henceforth enter of Record in this Court any of the ſaid Judgments, or ſet down upon any of the ſaid Judgments ſo entred any Coſts of Suit, before the ſaid Coſts be rated and allowed of by any one of the Judges of this Court, or by the Prothonotary of this Court, in whoſe (*d*) Office the ſame Judgement ſhall be entred of Record, and Warrant given by him under his hand for the entring of the ſaid Judgment, upon pain to be impriſoned and expulſed the Court for ever.

E. Coke, *P. Warburton*, *H. Winch*, *Auguſt. Nicolls*.

Easter,

* *Mi.* 12 *Ja.* I. *Hil.* 20 *Ja.* I. (*a*) Was made Lord Chief Juſtice of the Common Pleas 11 *April* 1603. 1 Ja. I. (*b*) Made a Judge of the Common Pleas 24 *Nov.* 1601. (*c*) Made 3 *Feb.* 1603. *Fra. Gawdy* Chief Juſtice of Common Pleas 26 *Auguſt* 1605. 3 Ja. I. (*d*) *Mich.* 6 *Geo.* II. *reg.* 4.

Easter, 12 Ja. I. 1614.

De Termino Paſche Anno Regni Domini Jacobi *nunc Regis Anglie, &c. duodecimo.*

Prothonotaries Clerks.

FOraſmuch as many Diſorders of late have crept into this Court, by reaſon that the Prothonotaries of this Court do admit ſo many to be Clerks of their Offices as were never brought up in their Offices, and ſuch as are ignorant of the Orders and Courſe of this Court, whereby great diſorders do daily ariſe in this Court, and amongſt others, the ill entring of Rolls, and the keeping out of them ſo long that the Rolls cannot be bound up in ſuch convenient time as they ſhould and have been accuſtomed; and this proceedeth that the Prothonotaries Clerks do carry their Rolls into the Country, for remedy whereof,

1. It is Ordered, this preſent Term of *Easter*, That if any Clerk of this Court ſhall preſume to carry any Roll of this Court into the Country, he ſhall for the firſt Offence forfeit to the Poor mans Box of this Court Forty Shillings; and for the ſecond committed to the *Fleet*, and expulſed this Court for ever.

Rolls.

2. *Item*, That every Clerk of this Court entring of any one Term half a File of Rolls and under, ſhall within fourteen dayes next after the end of every Term deliver into the Office whence he received ſuch Rolls, all the ſaid Rolls well and faire entred, upon pain to forfeit to the Poor mans Box of this Court for every one of the ſaid Rolls not delivered as aforeſaid for the firſt offence ten ſhillings, and for the ſecond to be expulſed this Court: And that every Clerk of this Court that entreth of any one Term above half a File of Rolls, and under a File, ſhall within one and twenty dayes next after the end of every Term (*Eaſter* Term only excepted) deliver as aforeſaid all his ſaid Rolls well and fair entred, upon pain to forfeit as is laſt above ſaid. And moreover, That every Clerk of this Court that entreth of any Term one File of Rolls and upwards, ſhall within thirty dayes next after the ending of every Term (*Eaſter* Term only excepted) deliver as aforeſaid all his ſaid Rolls well and fair entred, upon the like pain to forfeit to the Poor mans Box of this Court for every one of the ſaid Rolls not delivered as aforeſaid for the firſt offence Ten ſhillings, and for the ſecond offence to be expulſed this Court. (*a*)

Writs of Execution.

3. *Item*, That no Clerk or Attorney of this Court ſhall make or ſue out of this Court any Writ of Execution upon any Judgment of this Court, except it be firſt ſigned with the hand of the Prothonotary of this Court in whoſe Office ſuch Judgment ſhall be entred, upon pain to forfeit to the Poor mans Box for the firſt offence Twenty ſhillings, and for the ſecond Offence to be committed to Priſon, and to be expulſed this Court for ever.

Attorneys.

4. *Item*, That every Attorney of this Court ſhall give his Attendance at the Court by the ſecond Retorn in every Term, ſaving only in *Michaelmas* Term, and in that Term, by the third Retorn at the furtheſt, upon pain to forfeit to the Poor mans Box for the firſt offence Forty ſhillings, and for the ſecond offence to be expulſed this Court, unleſs he ſhall have a juſt and reaſonable excuſe allowed of by this Court. (*b*)

Henry Hobarte,
Peter Warburton,
H. Winch,
Auguſtine Nicolls.

Mich. 12 Ja. I. 1614.

ORders made from henceforth to be obſerved in the Court of *Common Pleas*, concerning purſuites of Informations exhibited upon any penal Statute. (*c*)

Informers.

WHereas heretofore many Writs of Subpœna, *Labels and Tickets have been unduly made forth of this Court by the Clerks of this Court, no Information being filed in Court with any of the Prothonotories, to the grievance of the Subjects of the Realm, and Slander of the proceedings of this Court,* It is Ordered by the Juſtices of this Court this preſent *Michaelmas* Term, in the Twelfth year of his Majeſties Reign, as followeth.

1. Firſt that no proceſſe ſhall be awarded upon any Information exhibited in this Court, untill ſuch time as the ſaid Information be Orderly filed in one of the Prothonotaryes Offices of this Court, there to remaine upon the ſaid file, and then the Writ of *Subpœna*, and all other proceſs to be Signed by the Prothonotary, all generall Iſſues to be marked upon the Information, and if any Clark doe make out any *Subpœna*, Labell or Ticket contrary to this Order That for the firſt fault he ſhall pay unto the Poor mans Box xl s. and for the ſecond

(*a*) *Mich.* 1649. *Trin.* 29 *Car.* II. *reg.* 5. (*b*) *Mic.* 15 *Eliz.* *Mich.* 1654. *Sect.* 1. (*c*) *Former Rule* —, 2 *Ja.* I.

to be expulſed the Court, and the Informer that ſhall procure any *Subpœna*, Label or Ticket contrary to this Order by their owne means, or by any other not a Clark of the Court, the ſaid Informer to be committed to the *Fleet*, and to make ſuch fine with the King as ſhall ſeeme fit to the Court; That no Informer preſume to Compound for any penalty conteyned in any ſuch Information, before the Defendant have pleaded to the ſaid Information or Confeſſed the ſame.

Fees.

2. *And to the Intent that a due moderation be had and kept concerning the fees due for the proſecution of any ſuch Information,* It is likewiſe Ordered, That the Prothonotaryes of this Court ſhall take for the entring of any Information, and ſigning of the *Subpœna*, only 2 s. and viii d. and for the ſigning of any other proceſs xvi d. and likewiſe that the Clerk Ingroſſing the ſaid Information ſhall receive and take for his payns in that behalf only viii d. and for the Copy of the ſaid Information if it amount to the number of five leaves of paper and upwards, iii s. iiii d.; if it be under the number of five Leaves then for every Leaſe eight pence: for the making of every *Capias pro fine* vi d. for the ſeale of every *Subpœna* and *Capias pro fine*, the farmour of the Seale of this Court ſhall take only i d. for the ſeale of every other proceſs vii d.

3. And if it happen that any general Iſſue be pleaded to any Information after the Term wherein the ſame Information ſhall be exhibited, That then ſome known Clerk appointed by the Prothonotaryes for that purpoſe to enter the ſaid general Iſſues upon the Roll as aforeſaid, and he to receive of the defendant or his paynes in that behalfe only viii d.

Compoſitions.

4. Alſo that no Informer preſume directly or indirectly to take any ſum of Money or other rewards of any defendant named in any ſuch Information to neglect or foreſlowe the due proſecution of the ſaid Information, untill he have duely obtained from ſome of the Juſtices of this Court under his hand a ſeveral Licence to Compound for every ſeveral information ſo by him exhibited.

5. Likewiſe that after every ſuch Licenſe ſo had and obtained, and before any Compoſition made, the ſaid Informer ſhall with all convenient ſpeed bring the ſaid Licence into the Prothonotaryes Office where the Information is filed, there to be Regiſtred in a book to be kept for that purpoſe, and the Clerk to have iiii d. for Regiſtring thereof.

6. Alſo that every Informer after a Compoſition made for his part of the penalty by vertue of any ſuch Licence ſhall with all convenient ſpeed make true certifiate to ſome one of the Judges of this Court upon his oath, of all ſuch ſummes of Money as he hath received or ſhall receive for his ſaid Compoſition, which ſaid Certificate together with the ſaid Licence ſhall be forthwith ſent unto the ſaid Prothonotaryes Office, there to be Regiſtred in the aforeſaid book under Regiſtry of the ſaid Licence to the Intent that the Juſtices of the ſaid Court being truly informed thereof, may the better know how to rate and proportion the Kings part.

7. And if no ſuch Compoſition be made by vertue of any ſuch Licence before the next Term following after the granting of the ſame, yet ſhall the Informer in the ſame next Term following certifie the ſame Licence as is aboveſaid; and for default of ſuch Certificate, then an Attachment to be awarded againſt the ſame Informer.

8. *And to the intent his majeſty may be the better anſwered and Satisfied of all ſuch ſummes of money as ſhall accrew unto him by the ſaid Informations*;

It is likewiſe Ordered, That if the defendant in the ſame Informations named after Compoſition made with the Informer as is aboveſaid, do not voluntarily come in to anſwer unto the Kings majeſty for his fine to be Taxed and aſſeſſed by the Juſtices of this Court for his Majeſties uſe, then a *Capias ad Satisfaciendum finem* ſhall be awarded againſt him to compel him thereunto, whereupon the fine being ſet and aſſeſſed, ſhall be preſently paid in, and ſatisfaction being thereupon made and entred by the Prothonotary upon the Rolle of the ſaid Information, ſhall be for ever a full and finall diſcharge of the ſaid Defendant for the ſame Offence.

9. Alſo that every Information ſhall be entred on the Rolls of the ſame Term wherein it is exhibited, and that every general Iſſue pleaded to any Information ſhall be entred upon the ſame Roll where the Information is Entred, whether the ſaid Iſſue be pleaded unto the firſt Term, or at any time afterwards. *(a)*

Henry Hobart,

Peter Warburton,

H. Winch,

Auguſtine Nicolls.

(a) *Hil.* 20 *Ja.* I.

Mich. 14 Ja. I. 1616.

1. *A declaration what Writs, Proces and Entryes are to be made by the Philazers of this Court only, and by no other.*

De Termino Sancti Michaelis anno regni domini Jacobi nunc Regis Anglie, &c. quarto decimo et Scotie quinquagesimo.

IMprimis, All manner of *Capias*, *Alias* and *Pluries*, and all other incident proceſs before appearance of the defendant in all actions wherein proceſs of outlawrie do lye, untill the Exigent awarded.

Item, All *Grand Cape's*, *Pone* and *Diſtringas* as well peremptory as infinite, and all other incident proces before appearance of the Tenant or Defendant, Writs of Seiſin, and Writs to enquire of damages Iſſuing before appearance of the Tenant or defendant; but all Judgments upon Writs of Enquiry of damages are to be entred with the Prothonotary only.

Item, All writs of *Superſedeas* upon any *Capias* awarded out of their own Offices and writs of *Reſcous* upon the Sheriffs return.

Item, The entring of all *Comparence* upon Writs Iſſueing out of their own Offices, the entring of Rolls to compell the Defendant to appear, their bayles upon appearance, and making the firſt *Scire facias* upon the ſaid Bayle.

Item, *View* in dower or any other action where it lyeth, entring thereof, and writs of View thereupon.

Item, All writs of *Retorn. habend.* upon Nonſuite before appearance, Writs of ſecond deliverance before appearance, Writs of *Capias* in *Withernam*, *Alias* and *Pluries* likewiſe before appearance, *&c.* (*a*)

Henry Hobarte,
Peter Warburton,
H. Winch.

Mich. 14 Ja. I. 1616.

De Termino Sancti Michaelis Anno Regni domini Jacobi Anglie, &c. quarto decimo & Scotie quinquageſimo.

Writs.

II. *WHereas by the dayly Complaint made unto this Court it doth plainly appear, that many* Capias, Alias *and* Pluries *are ſued out without any Original to warrant the ſame whereby the King is deceived of his Fines and ſeales, and the Plaintiffs looſe the benefit of their Suits, having moſt commonly Judgments by default,* Non ſum informatus, *or confeſſion; which Judgments are reverſable for want of the Original, and the defendants put to unjuſt charges when no Original is to warrant their arreſt: For remedy of which abuſes, foraſmuch as other writs,* videlicet, *Exigents,* Habeas Corpora, *and the like, which are alwayes delivered of Record, are by that meanes freed from that abuſe;*

It is Ordered, That the firſt *Capias* only upon every Original Iſſuing out of this Court ſhall be by the Philazers of this Court entred and delivered of Record, for which entry and delivery of Record the Philazer ſhall take the antient and uſual Fee of four pence; And that no Attorneys upon payn to forfeit five pounds for the firſt offence, and expulſion for the ſecond, ſhall preſume hereafter to Seale any ſuch firſt *Capias* before the ſame be indorſed by the proper Philazer of the County out of which the writ is awarded, or his deputy thereunto appointed: And that all declarations in all ſuits ſhall be entred with the Prothonotaryes of this Court only and no other. (*b*)

2. *And whereas all appearances for defendants upon writs of* Capias, Alias *and* Pluries *iſſuing out of this Court ought to be entred of Record, or otherwiſe they are not warranted by the Courſe of this Court, neither can the defendant if he have been arreſted plead thereupon* quod comperuit ad diem *in diſcharge of the Sheriffs bond taken for the appearance, upon which they are often ſued, and the antient and uſual Fee for entring all ſuch appearances of Record being two ſhillings and four pence;*

Appearances.

It is Ordered, That every appearance upon every writ of *Capias*, *Alias* and *Pluries* iſſuing out of this Court, ſhall be entred of Record by the proper Philazers only out of whoſe Office the ſaid writ was iſſuing, and by none of the Prothonotaryes or other Officers of this Court: And that no Attorney upon payne to forfeit forty ſhillings to the Poor mens Box for the firſt Offence, and expulſion of the Court for the ſecond Offence, ſhall receive any declaration, or offer his appearance to any Clerk or Attorney of this Court upon any ſuch mean proces before the Attorney for the defendant hath entred the appearance of the Defendant with the Philazer of the ſaid County out of which the writ is awarded, for taking of which appearance, and entring thereof upon Record, the Philazer ſhall take the Fee of ſixteen pence and no more whereof he ſhall allow four pence to the Attorney which appeareth

(*a*) *Mich.* 15 & 16 *Eliz.* (*b*) *Trin.* 24 *Eliz.*

peareth for the defendant, for bringing a copy of ſuch Writ from the Sheriff.

Henry Hobart,
Peter Warburton,
H. Winch.

Hil. 14 Ja. I. 1616.

An Order made the 26th. day of January, *in Termino Sancti Hillarii Anno Jacobi Regis Anglie, &c. quarto decimo et Scotie quinquageſimo.*

Fines.

I. *Whereas by an Order made* Secundo die Maii *in* Termino Paſche Anno Elizabethe Regine, *&c.* xliii. *concerning Writs of* Dedimus poteſtatem, *It was then Ordered,* (inter alia) *That becauſe many Errors, faults and abuſes, have been and daily are committed in ſuing out of Fines, by reaſon that many ignorant and unskilful perſons, and ſuch as were never brought up in this Court, nor belonging to the ſame, did take upon them to ſue out fines; And that if any ſuch abuſes faults and Miſdemeanors did happen touching the ſame through their Negligence or default, no Reformation or puniſhment could be had, they being perſons unknown, It was then Ordered that no fine ſhould be received or Recorded in this Court unleſs the ſame be ſued out by ſome of the Attorneys of this Court, or Clerk, of ſome of the Juſtices of Aſſize, and ſubſcribed with the name of ſuch ſaid Attorney or Clerk, to the intent that if any Miſdemeanour be committed they may be called to anſwer it as by the ſaid Order remaining in the Treaſury at* Weſtminſter *at Large appeareth: Which ſaid Order hath not been performed as it ſhould or ought to have been, to the Loſs and hinderance of the Attornyes of this Court and prejudice of the Kings Subjects; And for that the Clerk of the Warrants hath the cuſtody of the Rolle of the Attornyes, and may beſt know who are Attornyes of this Court and who are not, and may give notice thereof to the Court if this Order be not hereafter duely obſerved (the want whereof heretofore hath made the ſaid former Order (a) fruſtrate) for the better Reformation therefore of Abuſes,*

It is this day Ordered, That from henceforth no fine upon any writt of Covenant ſhall be executed and ſued out but by and in the name of an Attorny of Record of this Court, or of a Juſtices Clerk of his Fines: And the ſaid Attorny or Juſtice's Clerk (or his man well known) ſhall bring the writ of Covenant immediately after it ſhall be ſealed to the Clerk of the warrants of this Court, or his Deputy, to be ſigned by him before it be returned Signed or Recorded by any other Officer of this Court, To the intent that the ſaid Clerk of the warrants or his Deputy may take and keep a note of the ſaid writ of Covenant; which note ſhall be made in the form following, *Berks. ſſ. A. B. ppo. ſuo C.D. ad proſequend. breve de Con. verſus E. F. de Manor. de Dale cum pertin. ac de ten. in Sale, &c.*

2. *And becauſe this Order tends to the retayning of the cauſes of the Court in the hands of the Attornyes of the ſame as is due,* It is Ordered, That the Attorny himſelf and Juſtice's Clerk ſhall allow for every ſuch Entry iiii d. out of his fee or fees, and the Attorny or Juſtice's Clerk ſhall ſubſcribe his name to the ſaid note. And the ſaid Clerke of the warrants or his deputy ſhall thereupon without delay Signe the ſaid writ and keep the ſame Note, and Regiſter it in a booke, that it may appear to the Court (if need require) what Attorny it was that ſued out that fine; And that no Officer of this Court or his Deputy doe Receive or ſigne any writ of Covenant, or make Entry of any fine until it be ſigned by the Clerk of the warrants of this Court or his Deputy, upon payne that any Officer, Attorny and Clerk of this Court herein offending, ſhall pay to the boxe for the Poor for every Offence xx s.

Henry Hobart,
Peter Warburton,
H. Winch.

II. *Orders conſidered of by the Judges, concerning the Exaction and Exceſſive taking of Fees.*

FIrſt, It is Ordered, That an exact Examination be had in every Court, and in every Office in that Court, what Fees were antiently taken and due for every thing done in that Court, and what hath been exacted by colour of erecting New Offices, or for *poſt diems*, or in reſpect of expedition, or upon any other pretence or colour whatſoever. The like to be done by the Juſtices of Aſſize for Fees belonging to the Clerk of the Aſſize or of the Peace, Sheriffs or other Officers whatſoever within their Circuits.

Then the true and antient Fees known to have them ſet down in Tables of every Court, and for every Circuit, and there to remain in ſuch places as thoſe Judges of thoſe ſeveral Courts and Circuits ſhall aſſign and appoint.

And if any Officer, Attorney or Clerk ſhall offend in taking other Fees then ſhall be allowed of and ſet down in that Table, then the ſame Officer, Attorney or Clerk, for the firſt

(a) *Eaſter* 43 *Eliz. Trin.* 24 *Eliz.*

firſt offence to make reſtitution of treble ſo much as he ſhall have taken of the party, and for the ſecond offence to do the like, and to loſe his Office and place, and to be excluded the Court for ever.

Attorneys.

2. That the number of Attorneys of each Court be viewed, and to have them drawn to a competent Number in each Court, and the ſuperfluous Number to be removed, wherein reſpect to be had, that the moſt unfit and unskilfulleſt perſons be removed.

3. That no Attorney ſhall ſuffer any other to uſe his Name, or practice in his Name, upon pain that the one and the other be both puniſhed at the diſcretion of the Court, and to be excluded the Court for ever. *(a)*

Bail.

4. That no Bayl be offered to be put in by any Attorney for any party againſt whom no proces is ſued, or Original brought, but the party being preſent, and the aſſent of the Court thereunto had.

Fees.

5. That no Attorney nor Solicitor ſhall take any allowance of or for any *(b)* Fee disburſed by him to any Serjeant or Councellor in caſe where the General Iſſue is pleaded, or for procuring to have or make an anſwer without having a Ticket ſubſcribed by the proper hand and Name of the ſaid Serjeant or Councellor teſtifying what Fee he hath received, and for whom, upon pain to be ſecluded the Court, and from the practice of an Attorney or Solicitor for ever, And to make reſtitution to the party ſo much as he ſhall ſo take allowance of; and if any Councellor at Law ſhall ſo affirm under his hand, that he hath received more than was delivered to him in truth, that then ſuch Councellor ſhall be ſecluded from any further practice in that Court where the cauſe is depending, at and by the diſcretion of that Court. And that no Attorney or Sollicitor ſhall take any allowance of or for any Fee disburſed by him to any Serjeant or Councel in any other caſe then is before ſet down, but that he ſhall truly ſet down the Councellors Name, what Fee he hath disburſed, and to whom, and take his Oath (if the party doth require it) before ſome Judge in the Court where the Cauſe depended, That he truly disburſed the ſaid ſumme to the ſame Serjeant or Counſellor, upon pain as is aforeſaid.

Serjeants and Councellors.

6. That if any Serjeant or Counſellor at Law ſhall take any Fee to be of Councel with any and to be with him at any time certain for any cauſe, and ſhall not attend the ſame cauſe accordingly, that then upon complaint made, or Information thereof given to the Judges of that Court where the Cauſe ſhall be depending, or any of them, the Judges by their diſcretion ſhall give order for the repayment and ſatisfaction thereof to the Clyent.

7. That if any Serjeant or Counſellor at Law ſhall be complained of to the Judges of any Court where the cauſe ſhall be depending, that the ſame Serjeant or Counſellor at Law have taken exceſſive Fees of any, for any matter depending in that Court, that then upon proof thereof the ſame Serjeant or Councellor ſhall at the diſcretion and appointment of the ſame Judges make reſtitution of the exceſs thereof to the party, upon pain not to be ſuffered to practice in the ſame Court for ſuch and ſo long time as the Judges of the ſame Court ſhall think fit, if the Court ſhall think fit to inflict ſuch puniſhment on them.

Mich. 17 Ja. I.

De Termino Sancti Michaelis Anno 17 Jacobi *Regis.*

Fees.

WHereas this Court hath been lately informed of a certain exaction ſometimes committed by ſome Attorneys Clerks and Sollicitors, in ſome remote Parts of this Realm, Namely, that they take Money of their Clients for the Retorns of Original Writs, and the ſubſequent Proceſs thereupon, as Capias, Alias *and* Pluries, *whereas no Fees were ever due, paid or required for the ſame, nor any Allowance thereof ever made by the Court, or any Officer of the ſame, ſo that if any ſuch Fees be taken, they are taken againſt the Courſe of the Court without Warrant, and are mere Extortion.*

Now to the end that ſuch Exactions, if any there be, may be prevented or ſtopped in their beginnings, This Court Decreth, That from henceforth no Officers or Miniſters, Attorneys Clerks, Sollicitors, or other Perſon or Perſons whatſoever, ſhall attempt to take, or demand any ſuch Fees of any Perſon or Perſons, for the Return of any ſuch Writs, upon pain of Impriſonment and other Puniſhment due to Extortion, and if the Offender be any Officer, Attorney or Clerk of this Court, that then he or they ſhall be alſo diſabled of his or their Practice in this Court.

Henry Hobarte, *P. Warburton,* *H. Winch,* *Richard Hutton.*

(a) Mich. 1654. *Sect.* 1. *Hil.* 14 & 15 *Car.* I. *reg.* 2. *(b) Stat.* 3 *Ja.* I. *cap* 7.

Hillary 20 Ja. I. 1622.

Orders concerning Informers, and other Proſecutors upon Penal Lawes.

De Termino Sancti Hillarii Anno viceſimo Regni Jacobi Regis.

WHereas it pleaſed the Kings Moſt Excellent Majeſty, by his Letters Patents under the great Seal of England *bearing date the Fifteenth day of* October, *in the Eighteenth year of his Majeſties Reign of* England, *to erect an Office of Receiver and Collector of Fines and Forfeitures due and to be due upon Penal Laws, Excepting (amongſt other things) ſuch as concern Badgers and Drovers: And whereas alſo it pleaſed his Majeſty by other his Letters Patents bearing date the Eighth day of* January, *in the Twentieth year of his Majeſties Reign, to unite and annex unto the aforeſaid Office the Collection and Receipt of all ſuch Fines and Forfeitures as concern Badgers and Drovers formerly excepted, authorizing and requiring by the ſaid ſeveral Letters Patents divers and ſundry things to be done and executed for his Majeſties better Service as therein is at large expreſſed;*

It is Ordered, *for the better accompliſhment of his Majeſties good pleaſure ſpecified in the ſaid ſeveral Letters, as enſueth.*

FIrſt, That every Informer or proſecutor that ſhall hereafter exhibit or ſue in this Court any Action, Suit, Bill, Plaint or Information, upon any Penal Law, ſhall within three dayes after the exhibiting thereof, deliver unto the ſaid Receivers or Collectors, or their Deputies, at the publique Office kept by them for that purpoſe, a true Note containing briefly and exactly the effect of the ſaid Information, Action, Suit, Bill, or Plaint, with the names and places of abode of the Defendants, and the quality of their Offence, to the intent the ſame may be regiſtred according to the true intent of the ſaid Letters Patents; or elſe ſhall make known at the ſaid Office the place of the ſaid Defendants abode, and leave at the ſaid Office a true Copy of the ſaid Information or Plaint, to the intent the ſaid Receivers or their Deputies may thereout take ſuch Notes to be Regiſtred as they ſhall think fit.

2. *Item*, The ſaid Informers and other Proſecutors ſhall deliver into the ſaid Office unto the ſaid Collectors or their Deputy or Deputies, a true and brief Note of every Verdict, Judgment or Execution that ſhall be given or awarded in the ſaid Informations Actions and Suits; and that within three days after ſuch Verdict, Judgment or Execution ſo given or awarded reſpectively.

3. *Item*, That every ſuch Informer or other Proſecutor ſhall within the like ſpace of three dayes as aforeſaid, after any Licence given for the making of any Compoſition or any Fine ſtricken or aſſeſſed for his Majeſty, or any compoſition made, enter the ſame in this Court, and alſo deliver a brief and perfect Note under his or their hands, expreſſing truly what Licence, Fine or Compoſition hath paſſed therein, unto the ſaid Collectors and their Deputy or Deputies at the Office aforeſaid.

4. *Item*, That every Informer or other Proſecutor that hath heretofore ſince his Majeſties laſt General Pardon, made any Compoſition which is not recorded or entred in this Court, ſhall before the end of *Eaſter* now next enſuing certifie and enter the ſame truly and juſtly in this Court upon the ſaid Informers own oath, and alſo deliver a brief and perfect Note thereof to the ſaid Collectors or their Deputies in the ſaid Office.

5. *Item*, That every Informer or Proſecutor ſhall proſecute with effect, without compounding, unleſs they be Licenced by the Court to compound, and the Licence entred in this Court, and a brief Note of the ſame delivered to his Majeſties Officers as aforeſaid; And that all Clerks and Officers be careful to perform their duties for levying his Majeſties parts and duties; otherwiſe upon complaint to be made by the ſaid Collectors, or Receivers or their Deputies, condign puniſhment ſhall be inflicted on theſe Offenders for their Offence or Neglect.

6. Laſtly, That the ſaid Collectors and their Deputies, ſuch as ſhall be allowed by this Court, ſhall be admitted to have free acceſs unto any Office in this Court, there in the preſence of the Principal Clerk of the ſame Office, or ſome other by him to be appointed for that purpoſe to view and ſee, ſearch and examine all and every the Records, Rolls, Proces, Files and Extreats in the ſame, or in the Cuſtody of any of the Officers belonging to the ſame, which may tend for the diſcovery and better finding out of any frauds or concealments of the Nature aforeſaid concerning any Information, Licence, Compoſition or Judgment upon any Penal Law or Statute; And alſo to take Notes or copies of all ſuch Informations, Bills, Plaints, Suits, Verdicts, Judgments, Executions, Licences and compoſitions upon the ſame, as well for the time paſt, as the time to come, as they the ſaid Receiver, or their Deputy or Deputies for that purpoſe appointed ſhall think fit, without paying any Fee for the ſame. And that all Officers and

Clerks of this Court ſhall yield them their reaſonable furtherance and aſſiſtance herein.*(a)*

Henry Hobarte, } *Edward Hutton,*
H. Winch, } *William Jones.*

Hillary, 2 Car. I. 1626.

De Termino Sancti Hillarii Anno Regni Domini Caroli *Dei gratia Anglie, Scotie, Francie & Hibernie Regis fidei defenſoris, &c. ſecundo.*

Concerning Outlaries, and Writs of Treſpaſs, Quare clauſum fregit.

ORders made this preſent Term of Saint Hillary, *by the Lord Chief Juſtice and the other Juſtices of the Court of* Common Pleas *at* Weſtminſter, *for the Reformation of divers Abuſes as well concerning Outlaries, as Miſdemeanors of Sheriffs in the Execution of Proceſs thereupon, to the great delay and damage of Creditors in their Suits, as alſo by the late ſuing forth of Writs of Treſpaſs,* Quare clauſum fregit, *where the cauſe of Action is Debt, contrary to Law and the antient Practice of this Court: And that the ſaid Abuſes may be ſuppreſſed, and the Proceedings of this Court ſetled and eſtabliſhed for the due Adminiſtration of Juſtice both to the Plaintiff and Defendant according to the Rule of Law, and the Uſage of the ſame Court.*

Actions of Debt.

1. It is Ordered, That no Attorney or Clerk of this Court hereafter ſhall ſue forth a Writ of Treſpaſs *vi et armis*, where the true cauſe of Action is debt, upon pain to forfeit for the firſt offence Twenty ſhillings; and for the ſecond offence to be put out of the Roll; And that no Attorney or Clerk by conſent or compoſition ſhall take a declaration in Debt, his Clyent being arreſted upon an Action of Treſpaſs *vi et armis*; or ſhall take a Declaration for any greater debt then for which the Defendant was arreſted; but the Defendant to have Coſts of Suit in ſuch caſes for his unjuſt vexation, according to Law and the antient Practice of this Court.

Outlawry. Bail.

2. It is Ordered, That upon every Reverſal of any Outlary or Writs of Error brought for Reverſal of any Outlary before Judgment, except in the caſes hereafter following, the party that ſhall ſo Reverſe the Outlary or bring a Writ of Error for reverſing ſuch Outlary, ſhall by himſelf or his Attorney appear to a new Original, and put in *(b)* Bail to the Plaintiffs Suit, if the debt or damages demanded by ſuch Original be Twenty pounds or above, in ſuch manner and form as is uſed in all caſes when any Utlary is reverſed, or a Writ of Error for want or for inſufficiency of the Writ, or retorn of the Proclamation, according to the Statute made in the 31ſt year of *(c)* Queen *Elizabeth*; unleſs the Plaintiff himſelf or his Attorney give conſent thereunto, or that the Court be ſatisfied by ſufficient teſtimony upon Oath or otherwiſe, that the matter is agreed.

3. *But in caſe where the Defendant is arreſted upon a* Capias Utlagatum *in ſome remote County one hundred miles diſtant from* London, *from whence they cannot ſpeedily ſend Bail,* It is Ordered, That the Attorney that followeth the Cauſe for ſuch Defendant, ſhall leave with the Officer where the Writ of Error is allowed, or Outlary is reverſed, a Warrant or Note in writing ſubſcribed under the hand of his Clyent and himſelf, *That his Clyent at or before retorn of the Writ of* Capias Utlegatum *whereupon he was arreſted, will appear and put in Bail* as aforeſaid *to a new Original to be purchaſed within two Terms following*; for which Bails in the caſes aforeſaid ſhall be taken no more then two ſhillings four pence; (being the antient Fee that is taken for Bails upon the Proclamation) And in all caſes where the debt and damages ſued for in the Original ſhall be under Twenty pounds, then the ſaid Attorney to leave a Warrant or Note in writing ſubſcribed as aforeſaid, *That the Defendant Outlawed upon return of the ſaid Writ of* Capias Utlegatum, *ſhall and will appear to the Plaintiffs Suit,* as aforeſaid.

4. And it is further *Ordered*, That all reverſals hereafter made ſhall be entred upon the ſame Roll where the Exigent is awarded being the moſt proper and fitteſt place for the ſafety and quiet of all perſons outlawed, and their Executors to find the ſaid Reverſal in future times, and not upon other Terms and Rolls as is now uſed.

Sheriffs.

5. *For prevention of the great and common Abuſes daily committed by Sheriffs and Bayliffs, by enlarging perſons arreſted upon Writs of* Capias Utlegatum *before Judgment, without any* Superſedeas *at all, whereby the Creditors are oftentimes deprived of their due debts with loſs of their charges of Suit,* It is Ordered, That if any Sheriff or other Officer whatſoever after the end of this *Hillary* Term ſhall ſet at liberty any perſon arreſted upon a *Capias*

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(a) Former Orders — , 2 *Ja.* I. *Mich.* 12 *Ja.* I. *Mich.* 12 *Geo.* I. *(b) Mich.* 17 *Car.* II. *Hil.* 15 & 16 *Car.* II. *(c) Cap.* 3.

Capias Utlegatum before Judgment, without a lawful *Superſedeas* in that behalf, that upon Affidavit thereof legally made, the party grieved ſhall have an Attachment againſt ſuch Sheriff or Officer ſo offending; and upon examination thereof the party ſo offending, to undergo ſuch puniſhment by Fine, Impriſonment, or otherwiſe as by the Court ſhall be thought fit; And the party may alſo take his remedy by Action of the Caſe upon the Eſcape, according to Law, wherein he ſhall have the Aſſiſtance of the Court. *(a)*

Tho. Richardſon, } *Francis Harvey,*
Richard Hutton, } *George Croke.*

Hillary, 8 Car. I. 1632.

De Termino Sancti Hillarii Anno Regni Domini Caroli *nunc Regis Anglie octavo.*

Attorneys and Clerks.

WHereas it appeareth, that many ignorant perſons not bred up in this Court, nor in any Inne of Court or Chancery, have been admitted to be Attorneys of this Court, to the great diſcouragement of many good and ſufficient Attorneys in the ſame; and many Attorneys contrary to the Antient uſage of this Court, permitted to draw and enter their own cauſes in the Prothonotaries Offices, by reaſon whereof many groſs Errors are daily committed, this Court ill ſerved, the Kings Subjects prejudiced in their Suits, and many ſufficient Clerks wholly attending the Prothonotaries Offices greatly diſcouraged and decayed: And whereas it is evident by the antient uſage and many former Orders of this Court, That the buſineſs of the Clerks in the Prothonotaries Offices, and the practice of Attorneys, have been and ought to be diſtinct Imployments; And for that it will be of Ornament and great uſe to this Court, to be attended with skilful Clerks able to do the ſervice of it, and the learning of the Law is much ſeen in the exact Forms of good pleading, Therefore to encourage Clerks of the Prothonotaries Offices to go on in their Profeſſion; And for remedy of preſent, and prevention of future Evils, It is this preſent *Hillary* Term by the Juſtices of this Court, Ordered as followeth:

1. FIrſt; All Clerks of Prothonotaries Offices, and Attorneys of this Court, who have heretofore promiſcuouſly exerciſed the diſtinct profeſſions of Clerk and Attorney, before the laſt day of *Eaſter* Term next coming, ſhall make election and declare unto the Prothonotary of whoſe Office they are, whether of the ſaid Profeſſions they intend to follow; And ſhall for ever waive the other, except in ſome particulars hereafter mentioned.

2. *Item*, According to the auncient uſage and divers Orders of this Court, no Attorney ſhall from henceforth enter or exemplifie any Common Recovery, or draw, copy, or enter, any declaration, Plea, Iſſue, demurrer or other cauſe Iſſuing out of the Prothonotaryes Offices, but ſhall make choice of ſome Clerk of that Prothonotaryes Office wherein himſelf entreth to do the ſame, upon pain of ſuſpenſion from his practice for the ſpace of two Terms, and further puniſhment at the diſcretion of this Court for the firſt Offence, and for the ſecond Offence, to be expelled the Court for ever. Provided, that ſuch Attorneys as for the ſpace of ten years laſt paſt at the leaſt have entred their owne Cauſes, whoſe Names ſhall be written in a Table ſigned by the Prothonotaryes of this Court before the end of *Eaſter* Term next, ſhall notwithſtanding be hereby permitted dureing their Lives to enter ſuch cauſes as are drawn by themſelves, and wherein they are Attorneys.

3. *Item*, None hereafter ſhall be admitted to be an Attorney of this Court, unleſs he have ſerved a Clerk or Attorney of this Court by the ſpace of ſix years at the leaſt, or ſuch as for their education and ſtudy in the Law ſhall be approved of by the Juſtices of this Court to be of good ſufficiency and every of them admitted of one of the Inns of Court or Chancery. *(b)*

4. *Item*, No Clerk of a Prothonotaryes office ſhall hereafter proſecute and defend as an Attorney of this Court any perſonal Action whatſoever upon pain to be ſuſpended and puniſhed as aforeſaid.

5. *Item*, None ſhall from henceforth be admitted a Clerk of a Prothonotary's office, but ſuch only as have ſerved a Prothonotary or Clerk in a Prothonotary's Office for the ſpace of Six years at leaſt, and to be approved to be of good ſufficiency and behaviour, and likewiſe be admitted of one of the Inns of Court or Chancery.

6. *Item*, No Clerk of a Prothonotaryes office ſhall hereafter proſecute and defend as an Attorney of this Court any perſonall action whatſoever upon pain to be ſuſpended and puniſhed as aforeſaid.

7. *Item*, The Names of all ſuch as are to be allowed Clerks of Prothonotaryes offices, and to have acceſs to the Records of this Court, ſhall before the end of *Eaſter* Term next be fairly written in a Table, and ſubſcribed by the Prothonotaryes of this Court; which Table ſhall remain in the Treaſury of the ſame Court; and that ſuch Clerks for diſpatch of their Buſineſs and writing of precedents for increaſe of their knowledge, ſhall have

(a) Mich. 17 *Car.* II. *(b) Mich.* 1654. *Sect.* 1.

have acceſs to the Records of this Court without paying any fee for the ſame.

8. *Item*, the Prothonotaryes of this Court ſhall not from henceforth deliver any Plea Roll or Common Roll to any whoſe names ſhall not be regiſtred in the ſaid Table.

9. *Item*, No Attorney of this Court already admitted ſhall from henceforth remove or cauſe to be entred any of his Cauſes out of the Prothonotaryes Office wherein he is now ſetled and his Cauſes entred; And that ſuch Attorneys whoſe Cauſes are now entred in more Offices than one, ſhall be reſtrained to enter in one Office only, (*a*) And alſo that every Attorney hereafter to be admitted, ſhall from henceforth cauſe to be entred all his cauſes in that office where he firſt ſetleth and no other, unleſs it be by the leave and aſſent of all the Juſtices of this Court firſt had and obtained under all their hands upon reaſonable cauſe to them ſhewed, upon payne of being expelled the Court for ever; And no Prothonotary Clerks ſhall remove from the Office wherein he firſt ſetleth, without the like leave under the payne aforeſaid.

10. *Item*, The Attornyes of this Court ſhall from henceforth duely enter their appearance upon all Original Writs, Writs of *Capias*, and all other Writs returnable in this Court wherein the Defendants appearance ought to be entred, and ſhall likewiſe duely put in writs of *Superſedeas* to ſuch Exigents as they appear unto, according to the auncient uſage of this Court, and ſundry former Orders made in this behalf under pain to be expelled the Court for ever.

11. *Item*, The Attorneys of this Court ſhall from henceforth duely repaire unto the Prothonotaries Office, there to demand and take copyes of declarations, Iſſues and other Pleadings; and that no Clerk of the ſaid Offices ſhall be compelled to deliver any declaration or other copy, or to ſhew any deed or writing in *Curia prolat'*, Elſewhere then in the ſaid Office, and if any Attorney ſhall refuſe to take or pay for his ſaid copyes, then upon Complaint and proofe thereof made to this Court, to pay forthwith to the Clerk double his Fees, or elſe to be put out of the Roll of Attorneys and not to be re-admitted without Fine at the diſcretion of the Juſtices of this Court, paying alſo the ſayd double Fees according to an Order of *Michaelmas Sexto* and *ſeptimo Regine Elizabethe.* (*b*)

12. *Item*, The Clerks in every Prothonotaryes office according to the auncient uſuage of this Court, ſhall from henceforth duly attend the ſaid Office dureing the Term.

13. *Item*, No Officer, Clerk, Attorney or Attorneys Clerk of this Court, ſhall contrary to a former Order made *in anno quinto decimo Regine Elizabethe*, (*c*) hereafter ſue forth or procure by any means directly or indirectly any *Latitat* or *Quo minus*, or ſhall proſecute and follow for the Plaintiff any Action, bill or ſuite upon any ſuch proces of *Latitat* or *Quo minus*, upon pain for the firſt offence to be ſuſpended and puniſhed as aforeſaid; And for the ſecond to be expelled the Court.

14. *Item*, No Prothonotaryes Clerks ſhall from henceforth demand or receive any more then their due and ancient Fees; And foraſmuch as the ſaid Clerks as well for the skill and knowledge requiſite to their profeſſion, as for their great care and pains taken in their calling, do deſerve their due and ancient Fees allowed by the Court, If therefore any Attorney of this Court ſhall from henceforth endeavour to draw or procure any Clerk to draw or enter his cauſes for leſs or other then the ſaid due and allowed Fees, to the damage and diſcouragement of experienced Clerks, that then ſuch Attorney ſo offending upon complaint and proof made thereof to this Court, ſhall be expelled this Court for ever. And if any Clerk ſhall be found to offend therein, then the Clerk ſo offending to be utterly diſabled and expelled the Court for ever.

15. Laſtly, Every Attorney of this Court ſhall from henceforth every Term duly pay unto the Prothonotary in whoſe Office he entreth, for all his entryes of the ſame Term, And if ſuch Attorney do not pay for his ſaid entries the ſame Term or before the end of the next Term after ſuch entry made, then ſuch Attorney upon Complaint to the Court of ſuch default ſhall be put out of the Roll of Attorneys according to the ſaid Order of *Michaelmas ſexto et ſeptimo Regine Elizabethe.* (*d*)

Ro. Heath, *Richard Hutton,* } { *George Vernon,* *Fr. Crawley.*

Trin. 22 Car. I. 1646.

Concerning the filing of Writs of Covenant, Writs of Entry, Warrants of Attorney, and other Writs relating to Fines and Common Recoveries.

Whereas this Court is Informed, that divers Writs of Covenant, and other Writs whereupon Fines be levied, and Writs of Dedimus Poteſtatem *for acknowledging of Fines, and divers Writs of Entry, Summons and Seiſin, and Warrants of Attorney, whereupon Common Recoveries be ſuffered, have been of late times loſt and kept unfiled; And whereas it hath now and this laſt Term appeared to this*

(*a*) *Trin.* 21 *Car.* II. (*b*) *Sect.* 2. (*c*) *Sect.* 8. & *Mich.* 6 & 7 *Eliz. Sect.* 4. (*d*) *Sect.* 1.

this Court, that great damage hath accrewed and ſtill is likely to accrew to ſeveral perſons by the Miſpriſions and Neglects of Attorneys, Clerks and Officers herein; And whereas by the Statute made xxiii Elizabeth, *(a) for avoiding of Errors and ſuch Miſchiefs, proviſion is made, that the ſame Writs and other proceedings thereupon may be enrolled, and that the Inrollment thereof ſhall be as good, ſure and valid in the Law, as the ſame being extant were or ought by Law to be; and by the ſame Statute it is alſo Enacted, That the Juſtices of this Court for the Time being (other then the Chief Juſtice) ſhould take Order in all needful and convenieat matters for the ſaid Inrollments, giving them power alſo to examine and puniſh by Fine and Amerciaments any Clerks, Sheriffs Deputy, Attorney or other perſon for his or their Miſpriſion, Contempt and Negligence touching the premiſſes:* Therefore this Court doth declare and direct, That all Attorneys, Clerks, Sheriffs, Deputies and Officers be from henceforth more careful to file their Writs of Covenant, Entry, Summons and Seiſins, and other the Writs in the Statute mentioned, and to make due Returns thereof, and to do all other Things pertaining to their ſeveral Offices, which the Law requires to be by them performed touching the ſaid Fines and Recoveries, upon pain of ſuch Fines and Amerciaments as the Court may aſſeſs upon them by the ſaid Statute, which this Court declares they will from time to time put in full execution according to the ſaid Act of Parliament, for the puniſhment and prevention of the great Miſchiefs which ſhall or may happen by ſuch Miſpriſions, Neglects and Contempts as aforeſaid.

Edw. Reve,
Peter Pheſant.

Trinity Term, 1649.

Writs.

WHereas all Writs Original returnable in this Court, ought by the Law, and by the Courſe of the Court to be brought to the reſpective Philazers of the County where the Action is laid, to be by them Recorded: And whereas the Capias, Alias & Pluries, *and all other Meſn Proces thereupon, untill the Exigent ought to be made by the ſaid reſpective Philazers according to their Oaths and duty of their places, Yet divers Attorneys and others contrary to the Law and Courſe of the Court, do make the ſaid* Capias *and other Proces, and procure them to be ſealed without coming to the Philazer for the ſame, and do upon ſuch* Capias *cauſe the people to be arreſted and kept in Priſon, and often to be outlawed, no Original being ſued out or returned, contrary to the Law, to the intolerable vexation and wrong of the people in their Bodies and Eſtates, which Writs ſo unduly made ought not to be ſealed by the Clerks of the Seal of this Court: For the better prevention of the ſaid abuſe, And that the Clerks of the Seal-Office may have ſufficient knowledg of ſuch Writs, the Reſpective Philizers, of the Court are hereby enjoyned,* And it is Ordered by the Court, That the ſaid Writs iſſuing out of the Philizers Office be ſtamped by the Reſpective Philizers, ſo as the Clerks of the Seal-Office may know it hath paſſed the Philizer.

And it is further Ordered, That the Clerks of the Seal Office ſhall not Seal any of the ſaid Writs, whereupon there ſhall not be the Philizers Stamp as aforeſaid. And the Attorneys and others whom it may concern are to take notice, that the Court will duly put the Law in Execution againſt ſuch as ſhall offend in the premiſſes. And the Philizers likewiſe are hereby to take notice, That the Court doth expect they ſhould procure the Original to be duly ſued forth and filed according to their Oaths and Duty of their places; and that the Court will ſeverely puniſh their neglect herein.

Oliver St. John,
Peter Pheſant.

Michaelmas, 1649.

De Termino Sancti Michaelis Anno Domini 1649.

Rolls.

WHereas by the ancient courſe and uſage of this Court, noe Attorney or Prothonotaryes Clerk of this Court ought to carry the Rolls of this Court into the Country, but ought duely and fairely to Enter and then to bring in and docquet their ſaid Rolls in the reſpective Prothonotaryes Offices of this Court from whence they received the ſame, in ſuch convenient time as the ſame might be examined by the ſaid Prothonotaries, and alſo be bound up by the Clerk of the Eſſoines of this Court for the time being, by the Eſſoine day of every Subſequent Term, Eaſter *only excepted.*

And whereas upon the breach and neglect of this antient and Laudable Courſe and uſage, and for prevention of the Miſchiefs growing and happening thereupon, the Juſtices of this Court in Paſche duodecimo Jacobi *made a good Order upon ſeveral penaltyes therein expreſſed, which Nevertheleſs hath not taken that good*

(a) Cap. 3.

effect as was intended, by reaſon (as it is conceived) the times thereby limitted for Entring and bringing in the ſaid Rolls was too Short.

And whereas it dayly appeareth, that many Attornyes and Prothonotaryes Clerks of this Court have of late uſed again to carry their Rolls into the Country, And alſo delayed to bring in their Rolls into the Prothonotaryes Offices untill Eſſoine Eve of the ſubſequent Term, ſome others not untill the next Terme, and others do not bring them in at all, whereby many times Executions have been executed and no Judgments were to be found upon Record and oftentimes Motions made in Arreſt of Judgment, and no Iſſue Rolle could be had or found when the Court required the ſame, which is contrary to the ſaid ancient courſe of this Court, and contrary alſo to the ſaid former Order of this Court in that behalfe made, It is therefore this preſent *Michaelmas* Term **declared and ordered**, by the Juſtices of this Court.

1. That from henceforth no Attorney or Prothonotaryes Clerk of this Court ſhall carry any Rolls of this Court into the Country, upon payne to be put out of the Rolle of Attornyes of this Court, and out of the Prothonotaryes Office for the firſt Offence; and for the ſecond offence to be committed to the Fleet and expelled this Court.

2. *Item*, That every Prothonotaryes Clerk, and every Attorny of this Court that ſhall in any one Term enter five Rolls or under, Shall within fourteen dayes after the end of every Term (*Eaſter* Term only excepted) And that every Prothonotaryes Clerk, and every Attorny that ſhall in any Term enter above five Rolls, and to the Number of halfe a file of Rolls, ſhall within twenty four dayes next after the end of every Term (*Eaſter* Term only excepted) deliver in, a docquet of all ſuch Rolls as they ſhall receive from the Prothonotary well and fairly entred into ſuch Office from whence they received ſuch Rolls; And that every Prothonotaryes Clerk, and every Attorny of this Court that entreth in any one Term above half a file of Rolls, and under a file of Rolls, ſhall within thirty four dayes after the end of every Term (*Eaſter* Term only excepted;) And that every Prothonotaryes Clerk, and every Attorny that entreth in any one Term one file of Rolls, and upwards, ſhall within forty four dayes next after the end of every Term, (*Eaſter* Term only excepted) deliver in and docquet all his Rolls well and fairly entred, upon payne to be put out of the Prothonotaryes Office, and out of the Roll of Attornyes of this Court for the firſt offence, and for the ſecond to be committed to the Fleet, and expelled the Court.

3. **And it is further Ordered**, That the Clerk of Eſſoynes of this Court for the time being ſhall have liberty to peruſe the ſeveral books and papers of the Prothonotaryes of this Court by them uſed for the delivering out of their Rolls to their ſeveral Clerks and Attornyes of their ſeveral Offices, thereby to take notice what Rolls were by them delivered out and be not brought in within the times above Limitted; And the ſecond day of every Term the Clerk of the Eſſoynes of this Court, ſhall deliver to the Juſtices of this Court, in open Court, a note in writing of the Names of ſuch Clerkes and Attornyes as he ſhall find faulty herein, and of their ſeveral Offences againſt this Order; *And for his encouragements in ſo Needfull a Service* It is **Ordered** That every offender herein as often as he ſhall offend ſhall pay to the Clerk of the Eſſoynes ten ſhillings for every Rolle from time to time ſo left out and wanting as aforeſaid, and that in conſideration thereof all penaltyes heretofore Ordered to the Clerk of the Eſſoynes for keeping out of the Prothonotaryes Rolls to Ceaſe: And for the Rolls of every *Eaſter* Term the ſame ſhall be brought in and doggetted by the ſeverall Clerks, and Attornyes of this Court in the reſpective Prothonotaryes Offices of this Court from whence the ſame Rolles were delivered out upon or before the firſt day of *Trinity* Terme next following as heretofore hath been uſed, upon the like penalties (of putting out of the Rolle and office, and of Commitments and expulſion as aforeſaid. (*a*)

4. **And it is further Ordered**, That the Clerk of the Eſſoynes of this Court ſhall not deliver any of the Rolles which he hath received back from the Prothonotaryes to any Clerk or Attorney of this Court, or to any other perſon; But ſhall duely binde up the ſame Rolles; And that he ſhall not deliver any cleane Rolles for the Prothonotarye's Offices but to the Prothonotaryes themſelves, or to ſuch of their Clerkes as they ſhall ſend for the ſame upon pain to pay to the poor mans Box of this Court twenty ſhillings for every Roll which he ſhall ſo deliver contrary to this Order.

Ol. St. John, } *Peter Warburton,*
John Puleſton, } *Edward Atkins.*

Michaelmas, 1649.

De Termino Sancti Michaelis Anno Domini 1649.

Bail.

II. *WHereas many Inconveniences and Miſchiefs do happen unto the Plaintiffs in Cauſes*

(*a*) *Mich.* 2 *Geo.* I. *Hil.* 2 *Geo.* I. *Eaſter* 5 *W. & M. reg.* 2. *Eaſter* 34 *Car.* II. *Trin.* 29 *Car.* II. *Mich.* 1654. *Sect.* 7.

Cauſes removed out of Inferiour Courts into this Court, by reaſon of the not filing of Bayls taken in ſuch caſes in due time, and ſometimes notwithſtanding the great care and diligence of the Juſtices of this Court uſed for the taking of good Bayle, the Bayl doth prove inſufficient which happeneth by reaſon that the Plaintiffs nor their Attorneys do not enter their Caveats for good Bayl with the Juſtices of this Court according to the ancient courſe in that caſe heretofore uſed: For Remedy whereof,

It is Ordered this preſent *Michaelmas* Term, That the Plaintiffs or their Attorneys in ſuch Cauſes hereafter to be removed, do duly enter their Caveats for good Bayl with all the Juſtices of this Court according to the antient Courſe; And that the Attorney for the Defendant which ſhall remove any ſuch Cauſe, ſhall give notice unto the Plaintiff or his Attorney in the Inferiour Court, of the ſame time when the Bayl ſhall be put in, and of the names of the ſaid Bayl, and where they live, and ſhall make Affidavit of ſuch notice: And if the Plaintiff or his Attorny after ſuch notice will not attend to take exception to the Bayl at the time of the taking thereof, nor within (*a*) 14 dayes after, that then the ſaid Bayl ſhall be forthwith filed by the Attorney that ſueth forth the Writ, upon pain to be put out of the Roll of Attorneys of this Court; And if the Plaintiff or his Attorney ſhall within (*b*) fourteen dayes take exception to the Bayl, then ſuch Plaintiff or his Attorney that takes exception, ſhall give notice thereof unto the Defendant or his Attorney, and make Affidavit of ſuch notice within the fourteen dayes after the Bayl taken.

And for that many times priſoners are committed to the Fleet upon Habeas Corpus, *and the Commitments are not filed with the Prothonotary, and ſo not recorded, whereby many times Priſoners eſcape, and no Action lyes againſt the Warden of the Fleet for the ſame,* **It is therefore Ordered**, That the Attorney that ſues forth the *Habeas Corpus* for ſuch Commitments ſhall duly file the ſame in the Prothonotaries Office, that it may be recorded as it ought to be, upon pain to be put out of the Roll as aforeſaid; And that every Writ whereupon any Bayl is taken in Court ſhall be made retornable at a day certain, and the Bayl thereupon ſhall be put in upon the Retorn of the Writ, and not before nor afterwards. (*c*)

Oliver St. John,
Peter Warburton,
John Puleſton,
Edw. Atkins.

RULES and ORDERS
FOR THE
Court of Common Pleas

At Weſtminſter, *made and publiſhed by the Judges of the ſaid Court in the Term of St.* Michael, *in the Year* 1654.

I. *Concerning Attorneys and Officers.*

THAT all Officers and Attorneys of the Court, be admitted of ſome Inns of Court or Chancery, by the beginning of *Hillary* Term next, or in the ſame Term wherein they are admitted Officers or Attorneys; and be in Commons one Week in every Term, and take Chambers there; or in caſe that cannot be conveniently, yet to take Chambers or Dwellings in ſome convenient Place, and leave notice with the Butler where their Chambers or Habitations are, under pain of being put out of the Roll of Attorneys. (*d*)

That all Officers and Attorneys of this Court (*e*) appear in Perſon in this Court, upon or before the fourteenth day of *Michaelmas* Term; and upon or before the ſeventh day of every other Term, upon pain of ten Shillings for the firſt Default, twenty Shillings for the ſecond Default, and putting out of the Roll for the third Default. The appearance to be entred with the Clerk of the Warrants, and the Defaulters to be delivered to the Court upon Oath (if required) within three dayes after the time required for appearance.

That every Sheriff have his Deputy in Court to return and receive Writs, and that each Deputy yearly before *Hillary* Term have his Name and the Place of his reſidence in *London* or *Weſtminſter*, ſet and continued up in Tables, in the Office of the Clerk of the Warrants. (*f*)

That the Clerks of Aſſize, their Deputies or Aſſiſtants, do perſonally appear with their *Poſteas* on the firſt day of *Eaſter*, and *Michaelmas* Term; and the Deputy Sheriffs and all other Officers of the Court do perſonally appear by the Eſſoyn day of every ſecond Return of every Term; and continue there during

(*a*) *Mich.* 1654. *ſect.* 11 & 12. (*b*) *Hil.* 13 & 14 *Car.* II. (*c*) *Mich.* 1654. *ſect.* 10. (*d*) *Trin.* 29 & *Mich.* 36 *Car.* II. *Mich.* 4 *Anne.* (*e*) *Hil.* 14 & 15 *Car.* II. *reg.* 2. (*f*) *Hil.* 14 & 15 *Car.* II.

ring the reſidue of the Term without ſome juſt cauſe to the contrary allowed by the Court. *(a)*

That for the future Common Sollicitors be not admitted to practiſe in this Court unleſs they are *(b)* admitted Attorneys of either Bench; provided that it extend not to the managing of Evidence at a Tryal, nor to private Sollicitors or Servants of Corporations, or other Perſons in the caſes of their Maſters.

That none be *(b)* admitted an Attorney of this Court forthe time to come, unleſs he hath practiſed as a Common Sollicitor in this Court by the ſpace of five Years now laſt paſt; or hath ſerved, or ſhall have ſerved by the ſpace of five Years as a Clerk to ſome Judge, Sergeant at Law, practiſing Councellor, Attorney, Clerk or Officer of one of the Courts of *Weſtminſter*, unleſs his Maſter die or give over his Practice, and be alſo upon Examination found of good Ability and Honeſty for ſuch Imployment; and that ſufficient proof (to be put into Writing) be made of ſuch Service to the Prothonotary upon a deſire of Admittance, and filed with the Clerk of the Warrants without Fee.

That no Perſon practiſe in *(b)* another's Name, nor that any Attorney knowingly permit another to practiſe in his Name, upon pain of being put out of the Roll, excepting in Warrants of Attorney for common Recoveries.

That Attorneys diſmiſſed by one Court from their Practiſe for Miſdemeanor, be not (after Certificate) admitted to practiſe in another Court, it being contrary to the intent of the Law.

That no under Sheriff or Bayliff of Sheriffs or Liberties be admitted during ſuch *their* Employment to practiſe as Attorneys, under pain of Expulſion from the Employment of an Attorney, and not to be readmitted.

That ſuch Attorneys as have not been attending their Imployment in this Court by the ſpace of one year laſt paſt, unleſs hindred by Sickneſs, be not allowed their privilege of Attorneys.

That for the prevention of maintenance and brocage, no Attorney be Leſſee in an Ejectment nor *(c)* Bail for a Defendant in this Court in any Action.

Sect. II. *Concerning Sheriffs and Bayliffs.*

THAT, for the prevention and remedy of Delays and Abuſes in Sheriffs, Under Sheriffs, Bayliffs of Liberties and their Deputies, and other Bayliffs of Sheriffs, *&c.* in execution of Proceſs and Writs. That if it ſhall appear that any ſuch Officer ſhall wilfully delay the execution or return of any Proceſs or Execution, or ſhall take or require any undue Fees for the ſame, or ſhall give notice to the Defendant, thereby to fruſtrate the execution of any Proceſs or Writ, or having levied Money, ſhall detain it in their Hands after the time of the return of their Writs, beſides the ordinary Courſe of Amerciaments (the Contempt or Miſdemeanor appearing) an Attachment, Information, Commitment, or Fine to be, as the Caſe requireth. And this as well in the Caſe of a late Sheriff, or Perſon beforementioned, as of them at preſent in Office.

And whereas Sheriffs, have taken immoderate and exceſſive *(d)* Fees for Execution of Writs of Poſſeſſion and Reſtitution of Poſſeſſion, contrary to Law; it is declared that ſuch immoderate Fees ought not to be taken; and in caſe ſuch ſhall be taken, the Court to proceed to puniſh the ſame according to Law, upon complaint thereof made.

That to reform Abuſes by blank Warrants granted by Sheriffs, whereby Perſons are arreſted, and driven to extorted Compoſitions, for their Liberties without Proceſs of Law; That no Warrant be granted out to any Officer to arreſt or attach any Perſon before a Writ firſt come to the Sheriff. *(e)*

Sect. III. *Concerning the reformation and Puniſhment of Abuſes in general.*

ORdered, That a Jury of able and credible Officers, Clerks, and Attorneys, once in three years be impanelled, and ſworn to enquire. *(f)*

1. Of the Points uſually inquirable by the Writ, *viz.* Falſities, Contempts, Miſpriſions and Offences.

2. Of ſuch who have been admitted Attorneys or Clerks, and are notoriouſly unfit, their Names to be preſented to the Court, and they to be puniſhed or removed, as the caſe ſhall require.

3. Of new or exacted Fees, and of thoſe that have taken them, under whatſoever pretence, and to prepare and preſent a Table of the due and juſt Fees, that the ſame may be fixed and continue in every Office; and likewiſe for the Fleet.

And that ſome Perſons be injoined and ſworn to give evidence, *viz.* ſome Clerks of the Court, and ſome Attorneys in every County, not excluding others.

Sect. IV. *Concerning the better preſervation of Order among the Officers and Clerks, and obſervation of breach of Orders and Miſdemeanours.*

THat the Court do once every year in *Michaelmas* Term nominate twelve or more able and credible practiſers in the Court to continue for the year coming for theſe purpoſes hereafter limited.

That

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(a) Hil. 14 & 15 *Car.* II. *(b) Stat.* 2 *Geo.* II. *cap.* 23. 12 *Geo.* II. *cap.* 13. *(c) Mich.* 6 *Geo.* II. *reg.* 5. *(d) Stat.* 3 *Geo.* I. *cap.* 15 & 16. *(e) Stat.* 6 *Geo.* I. *cap* 21. *Hil.* 14 & 15 *Car.* II. *reg.* 1. *(f) Eaſter* 9 *Eliz.*

That they or any ſix of them examine ſuch Perſons as ſhall deſire to be admitted Attorneys, and appoint convenient Times and Places for the ſame: And in order thereunto, that ſuch Perſons as ſhall deſire to be admitted Attorneys, firſt attend the Prothonotary with his proof of Service, then to repair to the Perſons appointed to examine Attorneys, and being approved, to be preſented to the Court with the aſſignation of his Approbation and then to be ſworn in open Court, unleſs ſome juſt exception be againſt him.

That they give Information to the Court from time to time of breaches of Orders, and miſcarriages of Officers, Attorneys and Clerks.

Sect. V. That a ſettled courſe of Practice and Proceedings be ſettled, eſpecially in thoſe Caſes where there hath been uncertainty, and that the inconveniencies in Proceſs, Proceedings and Pleadings may be regulated in a due courſe. In order whereunto theſe ſeveral things are ordered and directed according to the method of Proceedings.

Concerning the entring of Records and the Perſons by whom.

THat no Rolls be delivered to be entred but only to Clerks, or ſuch Attorneys as have entred for the ſpace of four years laſt paſt, for themſelves.

That a Table be ſet up of the Names of the Officers and Clerks that are to be admitted unto the Rolls of the Treaſury: And that ſuch and no others be admitted thereunto, and that they may reſort there as well for their Occaſions, as for their Learning and Inſtruction, during the Term, and alſo twice in every Week from a Month after the Term, and that every ſuch Clerk duly attend as well the Prothonotaries Office in the Term time as for the entring of Judgments upon Summons given by the Prothonotary reſpectively.

Sect. VI. *For the prevention of the undue iſſuing of Judicial Writs: And falſifying of Records.* It is Ordered,

THat all Executions and all other Writs iſſuing out of the Prothonotaries Offices be duly ſigned by the reſpective Prothonotaries before the ſame be ſealed, and that no exemplification of any common Recovery or other Record which ought to be examined and ſigned by the Prothonotary, be ſealed before the ſame be ſigned by the Prothonotary. Nor that any exemplification (excepting exemplifications of Fines and common Recoveries of the preſent or next precedent Term) be ſealed before they be firſt ſigned and examined by the Clerk of the Treaſury.

And becauſe the intermedling and dealing of Clerks in more than one Prothonotaries Office at one time, hath been an occaſion of diſorder and uncertainty in Proceedings: It is likewiſe Ordered, That every Prothonotaries Clerk do apply himſelf from henceforth to one Prothonotaries Office only, and do give his attendance and make his Entries in that Prothonotaries Office. *(a)*

Sect. VII. *Concerning Rolls and Records, and their Entries and Bringing in.*

THat the whole Proceedings of any Cauſe after Appearance be carried on in the Office of that Prothonotary where it was firſt entred, or Declaration delivered.

That no Rolls be carried into the Country, under pain that the Offender be excluded from entring any more Rolls afterwards as a Clerk.

That the Common Rolls of every Term, except *Eaſter*, be brought into the Prothonotary fairly entred, and docketted at leaſt ten days before the Eſſoin day of the ſucceeding Term, under pain of ten Shillings for every Roll wanting. *(b)*

And that no Rolls be delivered to ſuch Perſon after any ſuch Offence the ſecond time, without ſpecial Order.

That the reſpective Prothonotaries before the third day of the next Term, do give in the Names of the Defaulters and Defaults unto the Court in Writing.

That the Rolls brought into the Prothonotary be delivered over to the Clerk of the Warrants the day before the Eſſoin day of the enſuing Term, together with a Note of the Rolls that are wanting, the ſame Note to be ſubſcribed by the Clerk of the Warrants, and re-delivered to the Prothonotary.

That the Clerk of the Warrants within five days after Receipt of the Rolls from the Prothonotary, do deliver over the Common Rolls to the Clerk of the Eſſoins, taking the like Note from the Clerk of the Eſſoins of the Rolls wanting.

That the Clerk of the Eſſoins bind up the Rolls, *viz.* the firſt part before the appearance day of the ſecond Return, the ſecond part before the Eſſoin day of the third Return, the third part before the Eſſoin day of the next Term.

(a) *Trin.* 21 *Car.* II. 12 *Ja.* I. *Mich.* 1649. (b) *Mic.* 2 *Geo.* I. *Eaſter* 5 *W. & M. reg.* 2. *Eaſter* 34 *Car.* II. *reg.* 3. *Eaſt.*

That the Rolls of *Eaſter* Term be brought to the Prothonotary, on or before the firſt day of *Trinity* Term, delivered to the Clerk of the Warrants within ſix days; to the Clerk of the Eſſoins within five days after, to be bound up before the Eſſoin day of *Michaelmas* Term, each party ſubſcribing the like Notes, and the penalties the ſame as before. (*a*)

Sect. VIII. *Concerning Original Suits and Proceſs, and where laid.*

THat Actions upon the Caſe, Treſpaſs for Goods, Aſſault or Impriſonment ariſing in any *Engliſh* County, be laid in their proper Counties, unleſs they ariſe where Juſtices of *Niſi prius* ſeldom come. And becauſe Treſpaſs or Trover for Goods, Battery, Impriſonment and Slander muſt needs be notorious in what County they ariſe; the Attorney knowingly laying them out of the proper County (unleſs in the caſes before expreſſed or for ſuch other Cauſes as ſhall be allowed by a Judge of the Court, and duly made appear to be true) be ſeverely puniſhed. (*b*)

That although the Declaration be delivered ſeven days before the laſt day of the next pretedent Term, or after, yet before, (*c*) plea, upon Oath made, the Viſne may be (*d*) changed upon Motion in the ſaid tranſitory Actions the next Term after: And the Defendant to plead to the new Action as he ſhould have done in the other without delay.

That the Viſne may be changed (upon Oath) as before, though the Defendant come in by Exigent.

Sect. IX. *Concerning Proceſs, and ſerving thereof.*

THat according to the proviſion of the Statute of the one and thirtieth year of Queen *Elizabeth*, (*e*) all Attorneys that ſue out Proceſs of Exigent be careful that Writs of Proclamation be delivered, and the Sheriff do take care duly to execute the ſame.

That according to the Statute of the twenty third year of *Henry* the ſixth, (*f*) a Priſoner taken upon a *Capias* in Proceſs be not diſcharged till he hath given Bond to appear, unleſs the Plaintiff or his Attorney ſhall conſent to take an appearance without Bail. And in ſuch caſe the Warrant of Attorney to appear, to be ſubſcribed or accepted by the Defendant's Attorney, and ſuch Warrant not to be revoked, and an Attachment to be granted againſt the Bayliff offending herein, or againſt the Attorney refuſing to appear or procure an appearance, having ſo ſubſcribed or accepted.

And foraſmuch as divers Sheriffs, Bailiffs of Liberties, and their Bailiffs reſpectively have of late time contrary to Law, and againſt former Orders of this Court, diſcharged Perſons taken upon Outlawries without Superſedeas; *It is hereby declared*, that ſuch dealing is an abuſe; and that all ſuch who have or ſhall diſcharge ſuch Perſons without *Superſedeas*, ſhall be ſeverely puniſhed. And that no Sheriff, Under-Sheriff, their Deputies or Bailiffs, may from henceforth diſcharge or ſet at Liberty any Perſon or Perſons arreſted upon any *Capias Utlagatum* untill he receive a *Superſedeas* according to Law from the Officer or Officers thereunto appointed. (*g*)

Sect. X. *Concerning a* Habeas Corpus *to Sheriffs and Gaolers.*

THat a *Habeas Corpus cum Cauſa ad faciendum & recipiendum*, directed to any Sheriff (other than *London* or *Middleſex*) not to be returnable *immediatè*, or in the vacation time, but at a day certain in Court in the Term.

That ſuch *Habeas Corpus* to the Sheriff of *London* or *Middleſex* may be granted in Term or Vacation time returnable *immediatè*. (*h*)

That in caſe of *Habeas Corpus* returnable *immediatè*, the Sheriff ought to make his return the ſame day that the Writ is delivered, and to bring the Body immediately, as is required by the Writ, without permitting him to wander abroad by colour or pretence thereof.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet, Marſhal or Goaler, the Priſoner is to be brought in cuſtody according to the Writ at the day limited, without being permitted to wander abroad in the mean time upon pretence of ſuch Writ.

That a *Habeas Corpus ad reſpondendum* may be granted to the Warden of the Fleet, or to the Keeper of an inferior Priſon of a Liberty or Franchize, where a *Capias* is returned in Court, *Non eſt inventus*; ſuch Writ to recite ſhortly the *Capias*, and to be returnable at a day certain in Court, and to be a good cauſe of *Deteiner*, as well as where a *Capias ad reſpondendum* comes to a Sheriff.

That a *Habeas Corpus ad ſatisfaciendum* may be granted to the Warden of the Fleet, or to ſuch inferior Goaler returnable in Court at

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(*a*) *Mich.* 2 *Geo.* I. *Eaſt.* 5 *W. & M. reg.* 2. *Eaſt.* 34 *Car.* II. *reg.* 3. *Eaſt.* 12 *Ja.* I. *Mich.* 1649. (*b*) *Mich.* 15 *El. Sect.* 15. (*c*) *Ante Carter* verſus *Dormer*, *Coſtar* verſus *Standen*, *Lucas* verſus *Rud.* (*d*) Not changed to a County Palatine or Town. *Ante Craſtel* verſus *Croker*, *Herbert* verſus *Shaw*, *Gardner* verſus *Forbes*; nor in *Scan. Mag.* Lord *Griffin* verſus *Rugby*; or Bill of Exchange or Note, *Ward* verſus *Colclough*. (*e*) *Cap.* 3. (*f*) *Cap.* 10. (*g*) *Hil.* 15 & 16 *Car.* II. *Mich.* 17 *Ca.* II. *Trin.* 2 *Ja.* II. (*h*) *Hil.* 13 & 14 *Car.* II.

at a day certain, and the Number Roll of the Judgment to be endorſed upon the Writ by the Attorney who ſues it out; and ſuch Writs to be a Cauſe of deteiner.

That if upon a *Habeas Corpus* the Priſoner be returned charged with Proceſs out of the upper Bench or Exchequer, and not of the Common Pleas, the Priſoner may be committed with thoſe Cauſes.

That if upon a *Habeas Corpus cum cauſa* the Priſoner be returned charged with a Proceſs out of the Common Bench, though returnable at a day to come, the Priſoner may be committed with his Cauſe.

That if upon a *Habeas Corpus*, or *Cepi Corpus*, the party be returned in cuſtody and Bailable, and ſpecial Bail requirable, the Bail not to be taken abſolutely without conſent of the Plaintiff or his Attorney, and if taken *de bene eſſe*, the Priſoner not to be diſcharged till the Bail be aſſented unto, or the Plaintiff over-ruled in Court to accept the ſame upon Examination.

That upon every Commitment by a Judge out of Court, the Proſecutor of the *Habeas Corpus* is to haye one of the Prothonotaries Clerks preſent at the turning over of the Priſoner, that the Commitment may be duly entred and filed.

Sect. XI. *Concerning* Habeas Corpus *to Inferiour Courts and* Procedendo. (*a*)

THat Writs of *Habeas Corpus*, directed to the inferiour Courts of *London*, *Weſtminſter*, *Southwark*, and other Courts within five miles of *London*, may be returnable *immediatè*. And if the Defendant intendeth to be bailed; then upon, or within four dayes after allowance of the Writ, *Notice* is to be given in writing of the Names and addition of the Bail; the time when, and the Judge before whom the ſame is intended to be put in; to the Plaintiff or his Attorney, or him that cauſed the plaint to be entred; or if none can be found, then notice of the Premiſſes to be left in writing with the chief Clerk of the Inferiour Court or his Deputy by the party that tenders the Bail, or his Attorney; and Oath made thereof; otherwiſe the Bail not to be taken. And a *Procedendo* granted if deſired, before Bail accepted.

That if no Bail in ſuch Caſes be put in within eight days after the *Habeas Corpus* allowed, in thoſe Courts when it is returnable *immediatè*, a *Procedendo* may be granted by any Judge of this Court, if deſired before Bail taken.

And if Bail be taken in the abſence of the Plaintiff or his Attorney, the ſame is to be taken *de bene eſſe*, and if no exception be taken within twenty days after notice given to the Plaintiff or his Attorney of the names of the Bail, and before whom taken, then upon Oath made of ſuch notice the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not excepted againſt, if not filed within four days after the twenty days, a *Procedendo* may be granted, upon Certificate that it is not filed.

That in Term time the Plaintiff in the inferiour Court may ſpeed the Defendant to put in, or to file his Bail by Rules given in the Bill of Pleas; and if not filed according to rules, upon certificate thereof, a *Procedendo* to be granted.

That all Writs of *Habeas Corpus* returnable in Court, be returnable at a day certain.

That upon Bail taken of a Perſon in Cuſtody, the Judges Clerk to deliver the Bail to the Prothonotary, to be filed, if aſſented unto; and to that end the Prothonotaries Fees to be depoſited, but the Priſoner not to be diſcharged, until the Bail be aſſented unto, or overruled in open Court.

Sect. XII. *Concerning ſpecial Bail.*

THat if the Defendant appear upon the Summons, Attachment, or Diſtreſs, or by *Superſedeas quia improvidè*, or doth truly render himſelf upon the Exigent, no Bail requirable.

That in all Cauſes of removal, be it by *Habeas Corpus*, Privilege, or *Certiorari*, ſpecial Bail ought to be given. (*b*)

That in Cauſes where the Defendant comes in by *Cepi corpus*, be it Debt, Detinue, (*c*) Treſpaſs for Goods, Action upon the Caſe (except ſlander) if the Debt or Damages amount to twenty pounds. ſpecial Bail is to be given, except it be againſt an Heir, Executor or Adminiſtrator. (*d*)

That in Covenant becauſe the Damages uncertain till Declaration, Bail at Diſcretion.

That in Battery, Conſpiracy, falſe Impriſonment, no ſpecial Bail of courſe without ſpecial Motion and Order.

That in ſlander no ſpecial Bail, except in ſlander of Title, wherein to be left to the diſcretion of the Judges.

That in privilege other than for Fees and Diſburſements as an Attorney in this Court, Bail at Diſcretion of the Court; in ſuch caſe where in a ſuit by a common Perſon, ſpecial Bail is not required.

That if Bail be given upon reverſal of an Outlawry, or removal by *Habeas Corpus*, the Original be ſhewn upon rendring of the Declaration, otherwiſe the Bail not liable; unleſs the

(*a*) *Hil.* 13 & 14 *Car.* II. (*b*) *Ante Sect.* 11. (*c*) *Ante Coole* verſus *Sankey*. (*d*) Now by *Stat.* 12 *Geo.* I. *cap.* 29. Bail in no Caſe, unleſs Affidavit be made of the Debt, &c. and then 10 *l.* holds to Bail.

the party or his Attorney will voluntarily appear, or take a Declaration, without ſhewing of it.

That in caſe of a removal out of an inferior Court, or reverſal, the new Original to agree in the nature of the Action, the ſum in demand, and the County, otherwiſe the Bail not liable; but if the party will voluntarily appear to ſuch varying original, to be good as to the Party; but if upon a Cauſe removed by *Habeas Corpus*, out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield* or *Pool*, which are Counties where the Judges of *Niſi priſius* ſeldom come, if the Action be tranſitory, it muſt be laid in the County of *Kent*, *Southampton*, *York*, *Stafford* or *Dorſet*, where the Town and County lieth, and the recognizance to be taken accordingly.

That the principal rendring himſelf at any time after Bail put in, and before or upon the (*a*) day of appearance of the *Scire Facias* returned, *ſcire feci*, or of the ſecond *ſcire facias* returned *nihil*, or in caſe there ſhall be an Action of Debt brought upon the recognizance againſt the Bail, then if the principal ſhall render himſelf upon or before the Proceſs returned ſerved, no further Proceedings to be againſt the Bail.

Sect. XIII. *Concerning Appearances, and Entries thereof.*

THat Appearances be duly entred with the Prothonotaries or Filizers of this Court reſpectively, with whom the ſame ought to be entred; but if ſpecial Bail be requirable in the Caſe, the Plaintiff not to be concluded by ſuch appearances, if he inſiſt upon it.

That where an Appearance is upon the Original Writ, if the Defendants appearance be not entred of Record, the Defendants Attorney to give his Hand to the Plaintiffs Attorney upon the delivery of the Declaration that he appeareth thereunto.

That any Attorney of either Bench accepting a Warrant to appear, or ſubſcribing a Proceſs, Declaration or Warrant to appear, be compelled to cauſe appearance, or be liable to an Attachment, or put out of the Roll, as the caſe requires; and the party not to be received to countermand ſuch appearance after his Retainer. (*b*)

That no Perſon without Rule of Court, order of the Judge or Prothonotary, and notice to the adverſe party or his Attorney, change or ſhift his Attorney; and ſuch Attorney newly coming in, to take notice at his peril of the Rules whereunto the former Attorney was liable had he continued.

That a Retainer of an Attorney of the Common Pleas, by an Attorney of the Upper Bench, & *è converſo*, be a ſufficient excuſe to the Attorney ſo retained, acting according to ſuch Retainer, and the Attorney ſo retaining without Warrant from the Party, to be ſubject to the puniſhment.

That if a *Capias* be returned in Court *non eſt inventus*, againſt a Priſoner in the *Fleet*, he be compellable to appear upon a *Habeas Corpus ad reſpondendum*, as well at the Suit of a ſtranger, as at his ſuit whereupon he is impriſoned, and to anſwer to a Declaration according to the Rules of the Court, or that Judgment be entred againſt him.

That he that reverſeth an Outlawry have an Attorney of Record preſent, who muſt undertake an appearance to a new Original. And ſuch Attorney ſhall be compelled to appear; and that the Defendant or his Attorney give notice to the Plaintiff or his Attorney of ſuch reverſal the ſame Term, or in the vacation next after it.

Sect. XIV. *Concerning Imparlances.*

THat forasmuch as ſome Inconveniencies do ſometimes happen to Plaintiffs by entring their Declarations in ſpecial Actions, It is thereſore Ordered, that the Plaintiffs in ſuch ſpecial Actions ſhall have liberty to enter the Imparlances the Term following, entring the ſame of the firſt Term with an *Incipitur*, as it hath been uſual in *Quare Impedits*; but that all other Imparlances be duly entred before any Iſſues, Demurrers or Judgments thereupon be entred.

That if the Defendant appear the firſt Term, and give no Rules to declare, the Defendants Attorney may the ſecond Term be compelled to (*c*) accept of a Declaration with Imparlance, and the Declaration may be entred as of that Term, with an Imparlance over to the next Term, or in the firſt Term with an *Incipitur* as before, as the Caſe ſhall require.

That if the Plaintiff declare not the ſecond Term, though the Defendant give no Rules, (*d*) yet a Nonſuit may be entred at the end of the ſecond Term upon a continuance over by him entred by *dies datus*, but not the third Term, or after.

That upon a meer real Action, or a bare *clauſum fregit*, an Imparlance of Courſe. But in Dower after view had, if the day to appear be upon the firſt Return of any *Hillary* or *Trinity* Term, no Imparlance without conſent or rule of Court.

(*a*) The Render muſt be made before the riſing of the Court, on the Appearance Day of the return, or it will be void. (*b*) *Hil.* 6 *Geo.* II. *reg.* 2. (*c*) Defendant not bound to accept a Declaration after the ſecond Term, nor can he ſign a *Non-Proſi* after the Vacation following the ſecond Term. (*d*) Now Defendant cannot ſign *Non-proſi* without giving Rules; and See *Hil.* 9 *Ann. reg.* 3.

That in Ejectment or any perſonal Action, if the appearance be the firſt Return of *Hillary* or *Trinity* Term, no Imparlance without conſent or ſpecial rule in ſuch Cauſes, other than in *London* or *Middleſex*. If the appearance be before *Craſtin' Martin'* or *menſe Paſch.* no Imparlance without conſent or ſpecial Rule. But if upon or after thoſe Returns, an Imparlance of Courſe.

In *London or Middleſex* if the appearance be before *Craſtin' Aſcen.* or before the laſt Return of any other Term, no Imparlance without conſent or ſpecial Rule; but the Defendant to plead as of that Term within fourteen days after the end of the Term upon Rule given to anſwer; but if of *Craſtin' Aſcen'*, or the laſt return, then an Imparlance of courſe. *(a)*

Sect. XV. *Concerning Rules to Declare and Plead.*

THat no Judgment by *nihil dicit* be entred untill there be a Rule to plead firſt given in that Prothonotaries Office where the Cauſe is entred, and the day by ſuch Rule be paſt, and that ſuch Rules be only given in the Bills of Pleas, or other remembrances for that purpoſe only, to be in the cuſtody of the ſecondary of the reſpective Prothonotaries during the time limited for giving of Rules, to the intent that all Perſons concerned may have recourſe to the ſaid ſecondary, and to ſee the ſame *Gratis*; and that Clerks who uſually enter for Attorneys, may give Rules for anſwer in the ſaid Remembrances in all their own Cauſes wherein there hath been Imparlances, except in Ejectments, ſo as they enter the ſame Rules in the Office without carrying any of the ſaid Remembrances out of any of the ſaid Offices; and that the Secondary ſet down upon the remembrances the day wherein ſuch Rules are given, and that no Rules to declare or anſwer be given after three dayes excluſive after the end of any Term, and ſuch Rule to be out at four days incluſive of the day wherein the ſame is given.

That in all Actions except Replevin (after Rules to declare are out, yet) if the Plaintiff or his known Attorney or Clerk be to be found, a Nonſuit for want of a Declaration not to be entred, unleſs the Plaintiffs Attorney or known Clerk be firſt called to for a Declaration. *(b)*

That if the Plaintiffs Attorney or Clerk be called to for a Declaration, and delivers it not to the Defendant or his Attorney ſometime during that Term, then the Rule being out, the Defendants Attorney may enter a Nonſuit.

That if the Plaintiffs Attorney being called to for a Declaration cannot afterwards find the Defendants Attorney or Clerk, to ſave a Nonſuit, he may deliver a Declaration into the Prothonotaries Office where the Rules are given.

That when a Deed, Will, or Letters of Adminiſtration are to be ſhewn in a Declaration, the Attorney of the Plaintiff delivering a Declaration with a ſubſcripriion, that the Defendant ſhall not be compelled to plead till the ſame be ſhewn, no Judgment by *nihil dicit* to be entered againſt the Defendant till the ſame ſhewn: nor any Nonſuit upon the Plaintiff if he ſhew the ſame before the end of the next Term.

If the Defendant be committed to Priſon by Proceſs out of this Court, or *Habeas Corpus*, the Priſoner entring his appearance with the Prothonotary in caſe of a plaint, or in caſe of attachment of Privilege; or with the Filizer in caſe of other Proceſs, and giving Rules to declare, the Plaintiff not declaring before the end of the next Term after the Commitment, the Defendant in reference thereunto to be diſcharged of his Impriſonment by *Superſedeas* in the end of the next Term and liberty for the Plaintiff to declare upon that appearance the next Term after that, at the furtheſt. *(c)*

That if a Writ be returnable *quinque Paſc.* or the laſt return of any Term, the Defendant giving Rule, and calling for a Declaration, if it be not delivered according to the former directions, four days or more before the Eſſoin day of the enſuing Term, may enter a Nonſuit, though above ſixteen days after the preceding Term. *(d)*

That the Plaintiff having declared and given Rules for anſwer, the Defendant is to deliver his Plea in writing to the Plaintiffs Attorney or known Clerk.

That if there be no ſuch Attorney or Clerk to be found, or being found, refuſeth to accept it, then the Plea may be left in the Office to ſave a Judgment.

That in any Caſe where a Plea or Declaration is left in the Office, no Nonſuit for want of a Declaration, or Judgment for want of a Plea, be entred.

That in caſes of popular Actions and Informations, or real or mixt Actions, except Ejectment, no Judgment to be entred by Default, or *nihil dicit*, without motion in Court.

That upon *Nul tiel* Record pleaded, and no difficulty or variance appearing, Judgment be entred after Rule, without motion by the Plaintiff.

That after any Imparlance of three Terms without any calling for anſwer, no Judgment to be entred without a Term's notice.

(a) *Mich.* 3 *Geo.* II. (b) *Hil.* 9 *Ann. reg.* 3. *Ante Sect.* 14. (c) *Eaſter* 5 *W. & M. reg.* 3. *Eaſt.* 8 *Geo.* I. 14 & 15 *Car.* II. *reg.* 3. (d) *Ante, Sect.* 14.

Sect. XVI. *Concerning Declarations.*

FOR avoiding of long and unneceſſary repetitions of the Original Writ in Actions upon the Caſe, and perſonal Actions upon penal Statutes,

That Declarations in Actions of Treſpaſs upon the Caſe or perſonal Actions upon any general Statute, namely, Hue and Cry, *Monopolies*, and for ſuits in the Admiralty, and ſuch like, other than Debt, repeat not the Original Writ but only the nature of the Action, *viz.* A. B. *was attach'd to anſwer* C. D. *in a Plea of Treſpaſs upon the Caſe, or in a Plea of Treſpaſs and Contempt, againſt the form of the Statute.*

Sect. XVII. *For the avoiding of the Common Bar and new Aſſignment.*

THE Declaration upon an Original Writ or Bill, *Quare clauſum fregit*, may mention the Place certainly, and ſo prevent the uſe and neceſſity of the Common Bar and new Aſſignment.

That unneceſſary (*a*) length of Declarations be forborn. And in order thereunto,

That in Actions of Covenant not to repeat more of the Deed than is neceſſary for the Aſſignment of the Breach, and not to repeat the Covenant in the concluſion.

That in Actions of Slander, long preambles be forborn, and no more inducement than what is neceſſary for the maintenance of the Action, but when it requires a ſpecial inducement or *Colloquium*.

That in Actions upon general Statutes the Declaration not to repeat the Statute, but to conclude againſt the form of the Statute in ſuch caſe made and provided; as in caſe of Debt, upon the Statute of 2 *E.* 6. for Tythes, the 32 *H.* 8. for Maintenance, and 21 *Jac.* of Monopolie.

That Action of Debt upon a Judgment had in the Courts of *Weſtminſter*, to recite only the Judgment. But if a Judgment had by or againſt an Executor or Adminiſtrator, Dicit thereupon to repeat the Declaration and Judgment.

That before the Declaration actually entred the Plaintiff may (*b*) amend his Declaration, paying Coſts or giving an Imparlance, at the Plaintiffs election, by the Order of a Judge of the Court or Prothonotary: But after it is entred, if the Amendment be but a ſmall matter that doth not deface the Roll, yet that before Iſſue or Demurrer entred, it be amendable by Rule of Court upon Coſts, and liberty to plead, with a new or further Imparlance.

Sect. XVIII. *To cauſe care in examination of the Declaration.*

THat if the Plaintiffs Attorney or Clerk deliver a Copy to the Defendants Attorney or Clerk, materially varying from the original Declaration, the diſadvantage thereof not to be caſt upon the Defendant, but on the Plaintiff, whoſe Attorney is paid for it.

Sect. XIX. *Concerning Pleading.*

THE Common Bar and new Aſſignment be forborn, where the Declaration contains the certainty equivalent to a new aſſignment.

That Pleadings be ſuccinct, without unneceſſary Repetitions.

That in the pleading of an Outlawry the *meſne* Proceſs be not repeated, but the Exigent and outlawry joined to the commencing of the ſuit.

That in pleading a general Statute, the Statute be not recited, as the Statute of 21 *Jac.* of Limitations.

Sect. XX. *Concerning Demurrers.*

THat according to the Statute of 27 of *El.* upon Demurrers, the Cauſes be ſpecially aſſigned, and not involved with general unapplied expreſſions of double, negative pregnant, uncertain, wanting form, and the like, but to ſhew ſpecially wherein, that the other Party may (as the caſe ſhall require) either join in Demurrer, or amend, paying Coſts, or diſcontinue his Action.

That it be declared, that Matters of form, as well on the part of him that demurrs, as of him that joyns in all parts of the pleading, are diſcharged; unleſs ſuch as are ſpecially aſſigned upon the Demurrer. (*c*)

Sect. XXI. *Concerning Trials, and notice of Trials and Inquiries.*

THat notice of Trials or Inquiries in *London* or *Middleſex* (the Defendant dwelling within forty miles of *London*) be eight days excluſive of the day wherein notice is given.

That if the Defendant live above forty miles diſtant from *London*, notice of ſuch Trials and Inquiries in *London* or *Middleſex* be fourteen days, excluſive of the day of notice. (*d*)

That

(*a*) *Ante, Mackdonel* verſus *Gunter.* (*b*) *Ante, Green* verſus *Bell.* (*c*) *Stat.* 4 & 5 *Anna, cap.* 16.
(*d*) *Ante, Gorman* verſus *Boyle*, and ſee *Trin.* 2, *Hil.* 6 & *Trin.* 10 *Geo.* I.

That in all Iſſues to be tried by *Niſi prius* in *London* or *Middleſex* upon a Record of a precedent Term, the Copy of the Iſſue be brought to the Clerk of the Treaſury, for the Ingroſſing of the Record, four days at the leaſt before the day of Trial of ſuch Iſſue, and that all Cauſes to be tried in *London* or *Middleſex* be entred into the Marſhals Book four days before the day of Trial.

That eight days notice excluſive be given upon Trials in the Country, and upon Writs of enquiry of Damages, in Writs of Dower and waſte, and all other inquiries of Damages. *(a)*

That if the Plaintiff give notice of a Trial, and he proceed not, the Plaintiff not to take it down to trial again without new notice to be given, as is before expreſſed, unleſs by conſent or Rule of Court.

But in *London* or *Middleſex*, if notice be given of a Trial for one ſitting, and the Plaintiff be not provided to proceed: If he give notice before that ſitting that he will try it the next ſitting, that to be held convenient notice. *(b)*

That in caſe of ſuch warning, and no proceeding, the Defendant upon motion to have his coſt of his former attendance, to be taxed by the Prothonotary; unleſs the Plaintiff give the Defendant warning in *(c)* convenient time that he would not proceed; or ſhew cauſe to be allowed by the Court in excuſe of ſuch Coſts.

That no Record of *niſi prius* be ſigned before the Iſſue be entred upon the Roll. *(d)*

That if the Plaintiff give notice for a Trial, and proceed not, the Defendant may take it by *proviſo* according to Law, giving notice eight or fourteen days, as the Caſe requireth, as aforeſaid.

That in *London* or *Middleſex*, if no warning for a Trial, then the Defendant not to take it by *(e) proviſo*, to try it the ſame Term; but afterwards he may take it by *proviſo* according to Law, giving eight or fourteen days notice, as the Caſe requires.

That if notice be given to the Attorney of the adverſe Party of a trial upon an Iſſue joined, it be taken to be good notice: And Oath made of want of notice to the Attorney, to turn the proof of notice given to the party upon him that brought it down to trial in that caſe.

That if an Iſſue be joined above a year ſince in any caſe, then one *(f)* Terms notice to be given of the Trial. *(g)*

Sect. XXII. *Concerning Trials at Bar.*

THat for the remedy of exceſſive Charges of Trials at the Bar, eſpecially whilſt the Jury lieth out, It is Ordered, that a Jury lying out one night after a privy Verdict delivered, there be allowed for the whole Dyet of each Juryman that night no more than three Shillings four Pence apiece, and for two Criers to each of them no more than two Shillings ordinary, beſides the charge of the Jurors Lodging.

That after a Verdict delivered in Court, the Jury and Officers to be paid their Charges and their Fees in the Inner Treaſury, without going to the Taverns or Victualling Houſes for that Cauſe.

Sect. XXIII. *Concerning ſpecial Verdicts at the Bar, or by* Niſi prius.

THat in finding ſpecial Verdicts where the Points are ſingle and not complicated, and no ſpecial Concluſion, the Council (if required) do ſubſcribe the Points in queſtion, and agree to amend omiſſions or miſtakes in the *meſne* Conveyance, according to the Truth, to bring the point in queſtion to Judgment.

That unneceſſary finding of Deeds *in hæc verba*, where the queſtion reſts not upon them, but are only derivation of Title to be ſpared; and found ſhortly according to the ſubſtance they bear in reference to the Deed, as Feoffment, Leaſe, Grant, *&c.*

Sect. XXIV. *Concerning new Trials.*

THat where a Verdict finds entire Damages where Damages are the principal, and part not actionable, though Judgment be arreſted yet by rule of Court a *venire fac de novo* may iſſue as upon an ill Verdict, and upon the new Trial the party may ſever his Damages. *(h)*

Sect. XXV. *Concerning Judgments.*

THat in a Judgment by *non ſum informatus*, or *nil dicit*, in *Eject' firmæ* the *Capiatur* be entred upon the firſt Judgment.

That

(a) Ante, Strangways verſus *Aſcough.* *(b) Ante, Smith* verſus *Haſſ.* *(c)* The Convenient time is two Days before the Commiſſion Day or Day of Sittings. See *ante, Deighton* verſus *Dalton, Goodright* verſus *Hoblyn*, &c. *Reg. Mich.* 3 *Geo.* I. *(d) Trin.* 11 *Geo.* I. *(e) Salk.* 652. The Defendant ſhall not try by *proviſo* till there be a Laches in the Plaintiff, except in Caſes where the Defendant is as a Plaintiff, as in *Replevin, Prohibition, Quare Impedit*, which are to have Return, Conſultation and Writ to the Biſhop. *(f)* Such notice muſt be given before the Eſſoine Day; *Ant. Buckſome* verſus *Pellow.* Judgment ſigned and no Inquiry within the Year, a Term's notice of the Execution of ſuch Inquiry muſt be given. *(g)* Unleſs there have been ſome intermediate proceedings by notice of Trial or otherwiſe; in which caſe common notice only neceſſary. *(h) Ante, Smith* verſus *Hayward.*

That upon a Cauſe removed by *Habeas Corpus* out of an inferiour Court, having Juriſdiction of the Cauſe, if Judgment be given for the Plaintiff, the Coſts below to be conſidered and caſt into the Judgment; if for the Defendant, the Charge of putting in Bail.

That the principal in any Bond or Bill obligatory do not for the time to come give Warrant to appear for, or confeſs Judgment againſt his ſurety; and that after the two and twentieth of *January* next, no Judgment be confeſſed for, or given againſt the ſurety upon any ſuch Warrant given by the principal.

That ſixteen days be allowed for the ſigning of (*a*) Judgments after every Term, except *Eaſter* Term, upon Cauſes depending in the Term precedent.

And laſtly, it is declared by the Juſtices of this Court, that as the Court doth expect that all the Rules and Orders before mentioned be duly obſerved; ſo It is further Ordered, That all other former Orders and (*b*) Rules yet in force, not hereby altered, ſuſpended, or annulled, be likewiſe obſerved and put in execution according to the true intent and meaning of the ſame.

Ol. St. John,
Edw. Atkins,
Matthew Hale,
Hugh Windham.

Sect. XXVI. The Oath to be taken by every Attorney of the Court of Common Bench at *Weſtminſter*, before his admittance, to be adminiſtred openly in Court, by the chief Prothonotary.

YOU ſhall do no falſhood or deceit, nor conſent to any to be done within this Court: And if you ſhall know of any to be done, you ſhall give knowledge thereof to the Lord Chief Juſtice, or other his Brethren, Juſtices of this Place, that it may be reformed. You ſhall delay no Man for lucre or malice. You ſhall increaſe no Fees, but you ſhall be contented with the old Fees accuſtomed. You ſhall plead no foreign Pleas, nor ſue any foreign Suits unlawfully, to the hurt of any Man; but ſuch as ſhall ſtand with the Order of Law, and your own Conſcience. You ſhall ſeal all ſuch Proceſs as you ſue out of this Court, with the ſeal thereof: And ſee the Fees paid for the ſame. You ſhall not wittingly nor willingly ſue, or procure to be ſued any falſe ſuit, nor give aid or conſent to the ſame, upon pain to be expulſed from this Court for ever. And further, You ſhall truly uſe and demean your ſelf in the Office of an Attorney within this Court, according to your Learning and Diſcretion. (*c*)

So help you God.

RULES and ORDERS
OF THE
Court of Common Pleas

Made ſince his Majeſty's Reſtoration, taken from the Originals of the ſaid Court, with the Allowance and Approbation of the Right Honourable the Lord Chief Juſtice North, *and the Judges of that Court, and firſt printed,* 34th Car. II. 1682.

De Termino Sancti Hil. Annis 13 & 14 Car. II. *Regis* 1661.

Rules Concerning Bails. (*d*)

THAT Writs of *Habeas Corpus* directed to the inferior Courts of *London*, *Weſtminſter*, *Southwark* and other Courts within five miles of *London* may be returnable *immediatè*. And if the Defendant intendeth to be bailed, then upon or within four Days after allowance of the Writ, the Day of which allowance being endorſed by ſuch Officer as allowes the ſame on the back of the ſaid Writ, notice is to be given in writing of the Names and Additions of the Bail, the time when, and the Judge before whom the ſame is intended to be put in, to the Plaintiff or his Attorney, or him that cauſed the plaint to be entred, or if none can be found, then notice of the premiſſes to be left in writing with the Chief Clerk of the inferior Court, or his Deputy by the party that tenders the Bail or his Attorney, and

Oath

(*a*) *Trin.* 27 *Car.* II. *reg.* 5. Now Judgments are ſigned any time in the Vacation. (*b*) Viz. *the foregoing Rules.* (*c*) This is the antient Form, but altered by the *Stat.* 2 *Geo.* II. *cap.* 32. and thereby a new Form appointed, *viz. J. A. B. do ſwear that I will truly and honeſtly demean my ſelf in the Practiſe of an Attorney according to the beſt of my Knowledge and Ability.* So help me God. (*d*) *Mich.* 1645. *Sect.* 10 & 11. *Mich.* 1649.

Oath made thereof, otherwiſe the Bail not to be taken, and a *procedendo* granted if deſired before Bail excepted. That if no Bail in ſuch Caſes be put in within eight days after the *Habeas Corpus* allowed in thoſe Courts, when it is returnable *immediatè*, a *procedendo* may be granted by any Judge of this Court if deſired before Bail taken. And if Bail be taken in the abſence of the Plaintiff or his Attorney, the ſame is to be taken *de bene eſſe*. And if no exception be taken within twenty days after the Bail taken, notice having been given as aforeſaid, then the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber and not diſaſſented unto, if not filed within four days after the twenty days a *procedendo* may be granted upon Certificate that it is not filed. That in Term time the Plaintiff in the inferior Court may ſpeed the Defendant to put in and to file his Bail by Rules given in the Bill of Pleas. And if not filed according to the Rules, upon Certificate thereof a *procedendo* to be granted.

That all Writs of *Habeas Corpus* returnable in Court be returnable at a day certain.

That upon Bail taken of Perſons in Cuſtody the Judges Clerk to deliver the Bail to the Prothonotary to be filed if aſſented unto. And to that end the Prothonotary's Fees to be depoſited, but the Priſoner not to be diſcharged until the Bail be aſſented unto, or over-ruled in open Court.

Orl. Bridgman, } { *Tho. Tyrrill,*
Rob. Hyde, } { *Sam. Browne.*

Hil. 14 & 15 Car. II. 1662.

Concerning Sheriffs making Deputies and returning of Writs.

I. IT is Ordered, that every Sheriff ſhall make and cauſe to be entred on Record a ſufficient Deputy, to receive all manner of Writs and Proceſs, under the pains and Penalties mentioned in the Statute in that behalf made in the 23d year of the (a) late King *Henry* the Sixth, which Law ſhall from henceforth be duly put in execution.

And it is further Ordered, that the ſaid Sheriffs, or their ſufficient Deputies, ſhall give their perſonal attendance in *Weſtminſter-hall* daily in the Term-time, that ſo they may with the more convenience diſpatch thoſe Services which appertain to their Offices reſpectively. And that no Sheriff or Sheriffs Deputy, ſhall deliver or make, or cauſe or ſuffer to be delivered or made, any Warrant or Warrants before the Writ or Writs be duly ſued forth and delivered to the ſaid Sheriffs or their Deputies reſpectively. Neither ſhall the ſaid Sheriffs nor their Deputies deliver or cauſe or ſuffer to be delivered, any Blank Warrants. Nor ſhall any Clerk or Attorney of this Court receive or procure to be made any ſuch Blank Warrants, upon pain of ſevere puniſhment, and Fine to be impoſed upon the ſaid Sheriffs and their Deputies, and utter expulſion of the ſaid Clerks or Attorneys reſpectively offending in the Premiſſes. (b)

Orl. Bridgman, } { *Tho. Tyrrill,*
Rob. Hyde, } { *Sam. Browne.*

Hil. 14 & 15 Car. II. 1662.

Concerning Attorneys ſuffering others to practiſe in their Names.

II. *WHereas every Attorney of this Court, as well by his Oath and the Duty of his Place, as under divers penalties by ſeveral Acts of Parliament, (c) and former Orders of this Court being retained to be Attorney for any Perſon or Perſons Demandant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court is bound to deliver or cauſe to be delivered his Warrant of Attorney to the Officer or his Deputy, ordained for the receipt and entry thereof in this Court.*

And whereas by a Statute made in the third year of the Reign of our late Sovereign Lord King (d) James, it is enacted; 'That no Attorney ſhall permit any other to follow any Suit 'in his Name: And that every Attorney ſo 'doing, ſhall be excluded from being an At'torney for ever thereafter.' And whereas by (e) Order of this Court, 'Every Attorney of 'this Court ought to appear in Perſon upon or 'before the fourteenth day of Michaelmas 'Term, and upon or before the ſeventh day 'of every Term, upon pain of ten Shillings 'for the firſt default, twenty Shillings for the 'ſecond default, and putting out of the Roll 'for the third default, and that the appear'ances ſhould be entred with the Clerk of the 'Warrants, and that the Name of the De'faulters ſhould be delivered to the Court 'by the Clerk of the Warrants or his Depu'ty, within three days after the time required

(a) *Cap.* 10. *Mich.* 1654. *Sect.* 1. (b) *Mich.* 1654. *Sect.* 2. *Note*; The above Rule *literatim* was again in *Trin.* Term, 1 *Ja.* II. ſigned by the following Juſtices, *Thomas Jones, John Charlton, Creſwell Levinz, T. Street.* (c) *Stat.* 23 *H.* VIII. *cap.* 30. *Trin.* 34 *H.* VI. *Sect.* 4. (d) *Cap.* 7. (e) *Mich.* 1645. *Sect.* 1.

'*for appearance.*' Notwithſtanding all which Laws and Orders through the diſorderly practice and negligence of divers Attorneys of this Court, eſpecially of the younger ſort for want of their Attendance upon their Office of Attorney here in Court, and permitting others to practiſe in their Names, and neglect to deliver their Warrants of Attorney to be filed, and entred of Record, very many great Inconveniencies, Troubles and Errors have been found and ariſen of late time more than formerly, to the ſcandal of the Court, and of the honeſt Attorneys practiſing therein, and the great prejudice and loſs of many of his Majeſty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants in their Suits depending in this Court.

For Remedy of which Miſchiefs and Inconveniences, and for avoiding of Errors for the time to come, It is forbidden by the Juſtices of this Court upon pain of expulſion from this Court, that no Attorney of this Court permit any one to practiſe in his Name. (*a*)

And it is further declared and Ordered by this Court, that every Attorney of this Court do from henceforth appear in Perſon within the times in every Term before limited and expreſſed under the penalties before mentioned for their Defaults.

And that every Attorney of this Court do file his Warrant of Attorney of the Term, wherein any Exigent is awarded, Demurrer or Iſſue joined, or Judgment entred, or which of them ſhall firſt happen upon pain of forty Shillings for every time he offendeth, and be attainted by due examination made by the Juſtices of this Court, ſuch Warrant to be filed upon or before the Eſſoin day of every *Trinity* Term, and within the ſpace of one and twenty days next after the end of every other Term. (*b*)

And that no Officer of this Court do make or ſuffer to be made any Proceſs or Entry in the Name of any Perſon not ſworn an Attorney, nor entred in the Roll of Attorneys, or in the name of any Perſon put out of the Roll of Attorneys, either as a diſcontinuer or for any Miſdemeanor, or by Rule of Court after notice thereof given to ſuch Officer by the Clerk of the Warrants of this Court for the time being or his Deputy.

And for the better effecting the due obſervance of this preſent Order, It is laſtly Ordered, that the Clerk of the Warrants of this Court for the time being or his Deputy, or the Perſons appointed yearly by the Court to give Information to the Court from time to time of breaches of Orders and Miſcarriages of Officers, Clerks and Attorneys in every *Michaelmas* Term, or oftner, if required, ſhall and may preſent to the Court from time to time the Name and Names of every Attorney or Attorneys offending againſt this Order, to the intent that the Court may examine every Attorney complained againſt concerning any of the matters before rehearſed, and upon attainting any ſuch Attorney upon due examination had, may inflict ſuch puniſhment by Fine, Impriſonment or Expulſion, as the Caſe ſhall require, or give Directions for Informations to be exhibited againſt the moſt frequent and notorious Offenders for the greater penalties mentioned in the Statute thereof made and provided. (*c*)

Orl. Bridgman, *Rob. Hyde,* } *Tho. Tyrrill,* *Sam. Browne.*

Hil. 14 & 15 Car. II. 1662.

Priſoners.

III. *Whereas many Perſons arreſted upon mean Proceſs iſſuing out of this Court, and upon Plaints levied in inferior Courts, and removed to the Fleet by* Habeas Corpus *with thoſe Cauſes returned upon them, have been detained thereupon for a long time, as well in the cuſtody of Sheriffs and Gaolers as in the Priſon of the Fleet without any Proſecution or Proceedings againſt them in this Court.* (*d*)

Now foraſmuch as every Perſon having cauſe of Action againſt any Priſoner in the Fleet, may have ſpeedy Proceedings againſt ſuch Priſoner; Therefore, and alſo to prevent unjuſt Vexations by long detaining of Perſons in Priſon there for the future;

It is Ordered by the Juſtices of the Court of Common Bench this preſent Term of St. *Hillary*, That if any Perſon be committed to the Fleet by *Habeas Corpus* in this preſent Term, or in any other *Hillary* Term, or in the Vacation following this Term, or any other *Hillary* Term, unleſs the Plaintiff or Plaintiffs at whoſe Suit the Priſoner ſtands charged at the Fleet, ſhall bring ſuch Priſoner to the Bar of this Court by *Habeas Corpus*, and declare againſt him within ſix dayes after *Trinity* Term begun, ſuch Priſoner may be diſcharged by *Superſedeas* to be iſſued of courſe out of the Prothonotaries Office of this Court, where the Commitment of the ſaid Priſoner with his Cauſes is entred, ſo as ſuch Priſoner firſt enter his appearance by Attorney with the ſaid Prothonotary in caſe of an Attachment of privilege, or of a Plaint, or with the Filazer upon other Proceſs returnable in this Court, and do bring a Certificate

(*a*) *See Stat.* 2 *Geo.* II. *cap.* 23. (*b*) *Mich.* 5 *Geo.* II. *Hil.* 2 & 3 *Ja.* II. *Trin.* 35 *H.* VI. *Sect.* 4.
(*c*) The foregoing Rule was in *Eaſter* Term 2 *Ja.* II. again ſigned by the Juſtices, *viz. Thomas Jones, J. Charlton, Creſſwel Levinz, J. Street.* (*d*) See *Stat.* 4 & 5 *W.* & *M. cap.* 21. *Eaſter* 8 *Geo.* I.

cate under the Hand of the Warden or Clerk of the Fleet, that no Proceedings by *Habeas Corpus* have been had againſt him within the time aforeſaid.

And that if any Perſon be committed to the Fleet in any *Eaſter* Term, or in the Vacation following any *Eaſter* Term, unleſs the Plaintiff or Plaintiffs bring ſuch Priſoner to the Bar of this Court by *Habeas Corpus*, and declare againſt him within ſix days after *Michaelmas* Term begun, ſuch Priſoner ſhall be diſcharged in manner aforeſaid.

And that if any Perſon be committed to the Fleet in any *Trinity* Term, or in the Vacation next following any *Trinity* Term, unleſs the Plaintiff or Plaintiffs bring the Priſoner to the Bar of this Court by *Habeas Corpus* and declare againſt him before the end of *Michaelmas* Term following, ſuch Priſoner may be diſcharged in manner aforeſaid.

And that if any Perſon be committed to the Fleet in any *Michaelmas* Term, or in the Vacation following after any *Michaelmas* Term, unleſs the Plaintiff or Plaintiffs bring the Priſoner to the Bar of this Court by *Habeas Corpus*, and declare againſt him within ſix days after *Eaſter* Term begun, ſuch Priſoner may be diſcharged in manner aforeſaid. And the Plaintiff or Plaintiffs may declare upon ſuch appearance entred the next Term after ſuch appearance or *Superſedeas* granted. And the Attorney appearing for ſuch Priſoner ſhall be bound to take a Declaration, and not afterwards.

And as concerning Perſons arreſted and remaining in the cuſtody of any Sheriff or Gaoler upon any mean Proceſs iſſuing out of this Court; It is further Ordered, that if the Plaintiff or Plaintiffs at whoſe Suit ſuch Perſon is arreſted and in cuſtody do not remove ſuch Priſoner by *Habeas Corpus* to the Fleet, nor the Priſoner enter appearance in manner aforeſaid; ſuch Priſoner may be diſcharged by *Superſedeas* in the end of the third Term after the arreſt according to the courſe antiently uſed. And the Plaintiff may declare upon ſuch appearance the Term following but not after; but if ſuch Priſoner cauſe appearance to be entred for him by Attorney, and cauſe notice thereof to be given to the Plaintiff or his Attorney; and if Oath thereof be made in writing and filed in Court, unleſs the Plaintiff or Plaintiffs declare againſt ſuch Priſoner in the Term next after ſuch appearance, the Priſoner may be diſcharged by *Superſedeas*, ſo as Oath be made by the Attorney for the Defendant, that no Declaration hath been delivered or tendred to him: And the Plaintiff or Plaintiffs may declare againſt the Defendant the Term next after ſuch appearance entred; but not afterwards.

And for the certainty of the practice in Proceedings to be had againſt Priſoners in the Fleet by virtue of the late (a) Act of Parliament; It is further Declared and Ordered by this Court, that in caſe any ſuch Priſoner ſhall hereafter be brought to the Bar of this Court, by a Writ of *Habeas Corpus* returnable at any day certain, being before the day of appearance of the third return of any Term; and the ſaid Priſoner name an Attorney who ſhall appear for him at the ſuit of the Plaintiff in the Action in the ſaid Writ ſpecified; the ſaid Defendant be compellable to plead by the laſt day of the ſaid Term, to a Declaration to be delivered to the ſaid Attorney if the Plaintiff give a rule for him ſo to do.

But where any Priſoner is brought to the Bar, by ſuch Writ returnable after the day of appearance of ſuch third Return of any Term, the Defendant of courſe to have Imparlance until the next Term following; but if ſuch Priſoner refuſe to nominate an Attorney to appear for him, then ſuch Priſoner is to plead within eight days according to the ſaid Act, provided that there be eight days after the return of the *Habeas Corpus* to give a Rule to be out within the Term.

And Laſtly it is Ordered, that after Iſſue joined, ten days notice at the leaſt excluſive of the day of ſuch notice be given to the Defendant (being actually in the Priſon of the Fleet) of the time of Trial of ſuch Iſſue to be had.

Orl. Bridgman,
Rob. Hyde,
Tho. Tyrrill.

Hil. 14 & 15 Car. II. 1662.

Priſoners.

IV. It is ordered by the Court, That no Bayliff nor Sheriffs Officer, ſhall preſume to exact or take from any Perſon, being in his Cuſtody by Arreſt, any Warrant to acknowledge a Judgment but in the Preſence of an Attorney for the Defendant; which Attorney ſhall then ſubſcribe his Name thereunto: Which ſaid Warrant ſhall be produced when the ſaid Judgment ſhall be acknowledged. And if any Bayliff or Sheriffs Officer ſhall hereafter Offend or do contrarywiſe, he ſhall be ſeverely puniſhed for ſo doing.

And it is further Ordered, that no Attorney ſhall from henceforth acknowledge, or enter or cauſe to be acknowledged or entered, any Judgment by Colour of any Warrant gotten from any Defendant being under Arreſt, otherwiſe than is aforeſaid.

Hil.

(a) *Stat.* 13 *Car.* II. *Cap.* 2. *Sect.* 2.

Hil. Annis 15 & 16 Car. II. Regis, 1663.

Sheriffs.

WHereas the King's Majesties Justices of this Court have received Information, That very many Under-Sheriffs of this (a) Kingdom and the Dominion of (b) Wales, *notwithstanding several Acts of Parliament, and divers Orders of this Court to admonish them of the Duties of their Places, in conformity thereunto, have neglected to have their Deputies upon Record, and to attend the Court in Term time to receive Writs and Process issuing out of and returnable in this Court, and to make and deliver due returns of the same; And also have neglected the execution of many such Writs and Process to them delivered, or having made execution of the same Process by arrest, or otherwise, have let Persons go at large, without taking Security or due Order for their Appearance. And having taking the Bodies, or seized the Lands or Goods of Persons outlawed upon Writs of* Capias Utlagat. *issuing out of this Court, have discharged such Persons and their Lands and Goods without Writs of* Supersedeas *for the same, or making any return to the Court, contrary to their Oaths and Duties of their Places, and expresly against the Statute thereof lately made and provided to the manifest delay of Justice, the Diminution of his Majesty's Revenue, the loss of many Mens just Debts, and the incouragement of Persons to stand in contempt of the Laws of this Realm. All which Inconveniencies and Mischiefs his Majesty's Justices being resolved to use their utmost endeavour and power to reform by examining and severely punishing all Sheriffs, and Under-Sheriffs, and their Clerks, Deputies and Bailiffs whom they shall find hereafter faulty in the Premisses.*

It is therefore **Ordered and Declared** by the said Justices of this Court, that every of the said Sheriffs before the last day of this present Term, and afterwards before the last return of the Term next after the taking of his Oath of Sheriff, shall make a Deputy on Record in this Court, according to the Statute made in the three and twentieth year of the Reign of King *Henry* the Sixth in that behalf; And that all Under-Sheriffs or their Deputies duly attend the Court in Term time, and that they duly execute and *(c)* return the Writs and Process of this Court, and take sufficient security, or certain order for appearance of all Persons by them arrested according to Law.

And that no Sheriff, Under Sheriff, Sheriffs Clerk, Deputy or Bailiff, nor any Steward, Bailiff of Franchise, Coroner, or their Clerk or Deputies shall set at liberty any Person taken upon any Writ of *Capias Utlagat.* nor discharge the Lands or Goods of any Person Outlawed by them seized upon any Writs of *Capias Utlagat.* without a lawful Writ of *Supersedeas* under the Seal of this Court to them delivered for such discharge, according to the late Act of Parliament in the *(d)* thirteenth year of his now Majesty's Reign in that behalf made and provided.

And it is further Ordered, that no such *Supersedeas* be made or issued out of this Court by any Officer, Clerk, Attorney or Minister of the same, without sufficient Bail first taken according to Law and former Orders and Usages of this Court, upon pain of incurring the severest punishment which according to Law and Justice can be inflicted upon the Offenders in any of the premisses. *(e)*

Orl. Bridgman, } { *Sam. Browne,*
Tho. Tyrrill, } { *Jo. Archer.*

De Termino Sancti Mich. *apud* Oxon. 17 Car. II. 1665.

Outlawries. Sheriffs.

FOR the better execution of the Process of Outlawry to be made and issued by and out of this Court, and the prevention of divers abuses by a neglect of the same; (f) **It is Ordered** that upon every Writ of Exigent which shall be sued forth of this Court, from and after this Term, if a *Supersedeas* be not put in thereunto at or before the return thereof, that no *Supersedeas* shall by any Sheriff or other Officer, be allowed as an appearance to any such Writ of Exigent until the Defendant shall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof, the full and just costs of Suit as he shall have been at in the suing forth of such Writ of Exigent, to be taxed by the said Prothonotary. *(g)*

And that upon reversing of all and every Outlawry the party Defendant which reverseth the same shall before the reversal thereof or any *Supersedeas* made thereunto, give special Bail if the Sum of Money or Damages expressed in the Original Writ whereupon the Exigent was awarded shall amount to the Sum of twenty pounds and the Plaintiff or Plaintiffs shall require the same, and pay to the Plaintiff or Plaintiffs or his or their Attorney

(a) *Stat.* 23 *H.* 6. *Cap.* 10. *Mich.* 15 *El. Sect.* 4, 7. *Mich.* 1654. *Sect.* 1, 2. *Hil.* 14 & 15 *Car.* II. *reg.* 1.
(b) *Sta.* 27 *H.* 8. *Cap.* 26. (c) *Hil.* 8 *Geo.* II. (d) *Cap.* 2. *Sect.* 2. (e) *Trin.* 24 *Eliz. Sect.* 1. *Mich.* 17 *Car.* II. (f) *Hil.* 2 *Car.* I. (g) *Trin.* 2 *Ja.* II.

ney, or leave in the Court for him or them, his or their full and juſt coſts of Suit expended in the proſecution of the ſame to be taxed as aforeſaid.

And for the prevention of the great and common abuſe committed by the Sheriffs and Bailiffs for inlarging of Perſons arreſted upon Capias Utlagat. *before Judgment, without a* Superſedeas *firſt had,* (a) It is farther Ordered, that if any Sheriff or Officer whatſoever ſhall ſet at liberty any Perſon arreſted upon a *Capias Utlagatum* before Judgment without a lawful *Superſedeas* in that behalf firſt delivered unto him or them; That upon Affidavit thereof made and filed, every Perſon offending therein ſhall pay the Sum of forty Shillings to the party grieved, or complaining, who ſhall have an Attachment of courſe againſt ſuch Sheriff, Officer or Party offending, for the payment of the ſame, and the Party or Parties ſo offending ſhall likewiſe undergo ſuch other puniſhments as by this Court ſhall be thought fit. (b)

Orl. Bridgman, *Sam. Browne,*
Tho. Tyrrill, *Jo. Archer.*

Trin. 21 Car. II. 1669.

Attorneys.

I. *Whereas by the antient Courſe and Uſage of this Court, every Attorney thereof ought to remain and continue, and make his Entries in that Prothonotary's Office only, wherein ſuch Attorney by his own Election was firſt ſworn and ſettled, and not to remove or withdraw himſelf or any of his Buſineſs from that Office, to any other of the Prothonotaries Offices, without the licence of this Court, upon juſt Cauſe firſt ſhewed and allowed by the Court. And whereas ſeveral good* (c) *Orders have been made by this Court for the continuance and obſervance of the ſaid ancient courſe. Nevertheleſs of late time ſeveral Attorneys of this Court have withdrawn themſelves and their Buſineſs from the reſpective Offices wherein they made their firſt Election, to enter their Cauſes, whereby great Miſchiefs have happened to divers of his Majeſty's good Subjects, and great Diſorders and Confuſion have been occaſioned in this Court.* (d)

For remedy whereof, and for ſettling good Order in this Court for the future, And to the intent the ſaid ancient courſe may be duly obſerved hereafter;

It is Ordered by the Juſtices of this Court this preſent *Trinity* Term, that every Attorney of this Court, who at or upon the firſt day of *Eaſter* Term, in the twentieth year of his now Majeſty's Reign, or at any time ſince, hath withdrawn himſelf or any of his Cauſes from that Prothonotary's Office, where he was then ſettled, unto any other Office, do upon notice of this preſent Order reduce himſelf unto that Prothonotary's Office where he was then ſettled, and there continue and henceforward cauſe all his Buſineſs and Cauſes to be entred and made in the ſame Prothonotary's Office only, and in no other Office, upon pain of incurring the diſpleaſure of this Court, and ſuch penalties as this Court ſhall think fit to inflict for the firſt Offence, and for the ſecond Offence to be expelled from this Court. *And it is further Ordered*, that no Attorney of this Court admitted ſince the firſt day of the ſaid *Eaſter* Term, nor any other Attorney hereafter to be admitted without the Licence of this Court, upon juſt cauſe ſhewed and allowed by the Court, firſt had, ſhall ſhift from the Prothonotary's Office where he hath or ſhall make his own Election and be ſworn and ſettled as aforeſaid upon like penalties aforeſaid.

And it is further Ordered that no Prothonotary of this Court ſhall hereafter permit or ſuffer any ſuch removing or ſhifting Attorney to enter any of his Cauſes in his Office contrary to this preſent order.

Jo. Vaughan, *Jo. Archer,*
Tho. Tyrrill, *W. Wylde.*

Trin. 21 Car. II. 1669.

Imparlances and Incipiturs

II. *Whereas upon complaint daily made unto this Court, it doth plainly appear that many Diſorders are of late crept into this Court, by reaſon that the Clerks and Attorneys of this Court do neglect according to their Duty, and the ancient uſage* (e) *and cuſtom of this Court, to enter upon Record Imparlances or* Incipiturs, *in all ſuch Cauſes wherein Imparlances or* Incipiturs *ought to be entred; and by reaſon thereof many Judgments are entred and Iſſues are joined before there is any foundation in Law, or preceding Record to Warrant the ſame, and thereby Defendants are compelled to plead to an erroneous Copy, not warranted by any Record, to the manifeſt and apparent Damage of his Majeſty's Subjects, and contrary to the ancient Orders and Proceedings of this Court.*

For prevention whereof, to the intent the ſaid ancient courſe may be duly obſerved hereafter, It is Ordered, by the Juſtices of this Court this preſent *Trinity* Term, that all Attorneys and Clerks of this Court do henceforth

(a) *Mich.* 1654. *Sect.* 9. *Hil.* 15 & 16 *Car.* II. *Sect.* 9. (b) *Trin.* 2 *Jac.* II. (c) *Hil.* 8 *Car.* I. (d) *Trin.* 21 *Car.* II. *reg.* 2. (e) *Mich.* 1654. *Sect.* 14.

duly enter or cauſe to be entred, Imparlances or *Incipiturs* in all Cauſes according to the ancient uſage and cuſtom of this Court, and that the want of entring an Imparlance or *Incipitur* in every Cauſe wherein Imparlances ought to be entred, be a ſufficient cauſe for the Defendant to have a farther Imparlance of courſe.

And that no Attorney, Clerk, or any Miniſter of this Court, ſhall hereafter give any common Rule to plead in any Cauſe wherein Imparlances or *Incipiturs* ought to be, and are not entred upon Record in any of the Prothonotaries Remembrances, until the reſpective Prothonotary, in whoſe Office the Cauſe is, ſhall give allowance for the giving of ſuch Rule to plead.

Attorneys.

And that the Rule of this Court made this preſent Term, for the prevention of all Debates and Controverſies that may hereafter happen to ariſe between the reſpective Prothonotaries of this Court, concerning Attorneys that have or ſhall hereafter remove themſelves and their Buſineſs from one Prothonotary's Office to another, may be effectual to all intents and purpoſes, It is farther Ordered by this Court this preſent *Trinity* Term, by and with the conſent of the reſpective Prothonotaries of the ſame Court, that the ſaid reſpective Prothonotaries ſhall permit and ſuffer each other reſpectively by themſelves or their reſpective Clerks to ſearch each others Doggets and Judgment Books at ſeaſonable and convenient times, for the better diſcovery and prevention of ſuch abuſes in the future. And that if it ſhall hereafter happen that any Matter or Buſineſs be henceforward entred in any Prothonotary's Office, contrary to the ſaid Order, that then ſuch Prothonotary ſhall upon notice and requeſt made to him, repay the Fees received for doing of ſuch Buſineſs to ſuch Prothonotary to whom ſuch Fees did of right belong.

And that no Bill ſhall be filed againſt any Officer, Attorney, Clerk or Miniſter of this Court to be called in Court, in order to a Fore-judger, untill the ſaid Bill be actually entred upon Record, and a Number Roll put upon the ſaid Bill. (*a*)

Jo. Vaughan, *Tho. Tyrrill*, } { *Jo. Archer*, *W. Wylde.*

Paſchæ 24 Car. II. 1672.

An Order Concerning the Superſedeas-*Office.*

I. *Forasmuch as by the Information of* Richard Abbot, *Gentleman, Officer of the Office aforeſaid, the Court is given to underſtand and be informed, that divers Abuſes are frequently committed contrary to the ancient uſe and cuſtom of this Court, in deceipt of the King's Majeſty of his Seals, and defrauding and deceiving divers Officers thereof;*

It is Ordered by the Court for prevention of ſuch like Frauds, Deceits and evil Carriages for the future, that no Under-Sheriff, or County-Clerk, of any County within this Realm, Nor any Attorney or other Miniſter of this Court, ſhall return or cauſe to be returned upon any Writ of *Exigi Facias* iſſuing out of, or returnable in this Court, any falſe return of *reddidit ſe*, where in Truth the Defendant hath not rendred himſelf to the Sheriff.

And that no Clerk, Attorney, or other Miniſter of this Court ſhall enter or cauſe to be entred any *retraxit* with any Under-Sheriff, County Clerk, or other Miniſter aforeſaid whatſoever, upon any Writ or Writs of *Exigi Facias*, iſſuing out of, and returnable in this Court untill the ſame *retraxit* be entred upon the ſame Roll, upon which the ſaid Exigent is awarded of that preſent Term in which the ſame is returnable. And that no farther proceedings be in that Cauſe after the party, outlawed by filing a new Original or by any other means or ways whatſoever to deceive the King's Majeſty of his Seals, and the aforeſaid Officer of the *Superſedeas* Office of his juſt Fees, for making and ſigning of the Writs of *Superſedeas quia improvide*, to ſuch Writs of Exigent or any other Officers of their juſt Fees.

And that no Under-Sheriff, or County Clerk aforeſaid, or other Miniſter of the ſame Court whatſoever, from and after the end of this preſent Term, ſhall receive any Writ of *Superſedeas*, or allow any ſuch Writ upon his or their Book or Books, File or Files, until the ſame be duly ſigned by the proper Officer of the ſaid Office, and alſo ſealed.

And laſtly, *It is Ordered* that no Attorney, or other Miniſter of this Court, either for Plaintiff or Defendant, ſhall give or receive any Copy or Copies of Declarations founded upon any Writ of *Exigi Facias*, until the King's Majeſty's Writ of *Superſedeas* be duly ſigned, ſealed and allowed with the Sheriff, Under-Sheriff, or his lawful Deputy, of the County where the Exigent is laid.

Jo. Vaughan, *Jo. Archer*, } { *W. Wylde*, *Rob. Atkyns.*

Eaſter,

(*a*) *Hil.* 11 *Geo.* II. *reg.* 3.

Easter, 24 Car. II. 1672.

Appearances.

II. *Whereas ſeveral irregular Attorneys retained to appear for Defendants, have contrary to the Law and uſage of this Court neglected to enter appearances for ſuch Defendants to the delay of Plaintiffs, Damage of Defendants, abuſe of this Court and to the defrauding the King's Majeſty of the duty of Six-pence, for every appearance given by a late Act of Parliament, entitled,* An Act for laying Impoſitions upon proceedings in Law.

For remedy whereof, It is Ordered by the Juſtices of this Court in this preſent *Eaſter* Term, That every Attorney retained to appear for any Defendant to any Writ iſſuing out of this Court, which are made by the reſpective Filacers of this Court, ſhall from henceforth according to the courſe of this Court, enter the appearances of all Defendants with the proper Filacer of this Court, of the City or County from whom ſuch Proceſs reſpectively did iſſue where the Action is laid, and pay the ſaid duty of Six-pence unto his Majeſty, to the ſaid Filacer, together with the ſaid Filacer's Fee, upon the penalties in the ſaid Act of Parliament mentioned.

And it is farther Ordered, that no Defendant ſhall be permitted to imparle, amend his plea or move to change the *(a)* Venue in any Action until his appearance be entred as aforeſaid.

And that no Attorney of this Court ſhall receive any Declaration unleſs an appearance be firſt entred with the Filacer as aforeſaid under the like penalty.

And that no Attorney ſhall deliver or cauſe to be delivered any Declaration or Count to the Defendants or Tenants Attorney, or to any Perſon for him, until the appearance (to warrant ſuch delivery) be duly entred with the proper Filacer, under the penalty to be expelled the Court.

And it is farther Ordered for the better diſcovering and puniſhing of Offenders againſt this Order, That the reſpective Filacers of this Court may at all convenient times freely peruſe the Doggets and other Memorials of the Prothonotaries reſpectively of this Court, to the end that in every Term they may deliver in writing the Names of all Attorneys of this Court, who ſhall not have entred the appearances of ſuch Defendants who employ them with the proper Filacer of this Court, to the Lord Chief Juſtice of this Court, or his Brethren (which they are hereby required diligently to do,) to the end the ſaid Juſtices may without remiſſneſs proceed againſt ſuch as ſhall be found Offenders againſt this Order.

Jo. Vaughan, *W. Wylde,*
Jo. Archer, *Rob. Atkyns.*

Easter, 27 Car. II. 1675.

An Order concerning the delivering of Copies *of* ſpecial Verdicts *and* Demurrers *unto the Juſtices of this Court, in all Cauſes entred into the Court-Book for Argument at the Bar.*

It is Ordered by the Court, That every Attorney of this Court towards any ſuch Cauſe, ſhall deliver true Copies of the Record thereof to the reſpective Juſtices of this Court, by the ſpace of one whole week at the leaſt next before the day appointed for ſuch Argument. Namely, The Attorney for the Plaintiff one Copy thereof to the Lord Chief Juſtice, and another to the Senior Judge; and the Attorney for the Defendant, like Copies to each of the other two Juſtices of this Court for the time being, according to the ancient courſe here uſed, under ſuch penalty as the Court ſhall think fit to inflict upon the Attorney neglecting his duty therein.

And it is further Ordered by the Court, That no Argument by Counſel on either ſide ſhall be heard at the Bar until Books be delivered to all the Judges.

Provided nevertheleſs, That in caſe the Attorney of either Party ſhall not deliver Books as he ought; then if the Attorney on the other ſide for expediting his Clients Cauſe will deliver Books to all the Judges, three days at the leaſt before the Argument, Counſel ſhall be heard on his Client's behalf at the day appointed. And the Attorney delivering Books as aforeſaid ſhall be imburſed the Charges of delivering the two Books which ought to have been delivered by the Attorney of the adverſe party, which Charges the ſaid Attorney ſhall be bound to pay upon demand thereof.

And laſtly, it is Ordered, That if the Charges of delivering the ſaid two Books ſhall not be paid before Judgment ſhall be given in the Cauſe, the Charges of delivering the ſaid Books ſhall be allowed upon taxing Coſts; and in that caſe the Attorney ſhall not be compelled to pay the ſaid Coſts. But if no Coſts

(a) *Mich.* 1654. *Cap.* 8.

Costs are to be taxed in the case, then the Attorney making default in delivering of Books as aforesaid, shall be compelled to pay the charges of the Copies so delivered by the Attorney of the adverse party, by Attachment or otherwise as the Court shall think fit. (*a*)

By the Court.

Fra. North,
Hugh Wyndham,
Rob. Atkyns.

Trin. 28 Car. II. 1676.

A Rule concerning Allowances of Writs *of* Error, *and Nonsuits upon them.*

Forasmuch as Information is given to the Lord Chief Justice of the Court of Common Pleas, *that several Attorneys of the said Court, do make out execution upon Judgments, whereupon Writs of Error are brought, without giving Rules, or signing* Non pros, *with the Clerk of the Errors (to whom the same particularly belongs,) and doe sue out Writs of Error, and shew the same to the Plaintiffs Attorney in the Action, without bringing them to the Clerk of the Errors, or putting in of Bail before the Lord Chief Justice of the said Court, according to the several* (*b*) *Statutes in that case made.*

For preventing of which irregular practices, **It is Ordered** by the Lord Chief Justice of the said Court, that for the future no Attorney of the said Court, do or shall make out any Executions, *non obstante Brevi de Errore,* untill they have had a Certificate from the Clerk of the Errors, that the Record is not removed, and a *Non pros* thereupon duly signed, and that all Attorneys, do forthwith bring their Writs of Error by them sued out to the Clerk of the Errors, to be allowed according to the ancient practise of the Court, or in default thereof, the Plaintiff's Attorney in the Action, is or may be at liberty to proceed to execution. (*c*)

Fra. North.

Mich. 28 Car. II. 1676.

Writs of Errors.

Ordinatum est quod omnia brevia de Errore indilate deliberentur Clerico Errorum pro tempore existen' Quodque nemo tenebitur abstinere à prosecutione executionis pretextu alicujus brevis de Errore priusquam predictum breve deliberatur Clerico Errorum & in casibus ubi speciale Ballium requiritur, Nisi querens super tali brevi de Errore infra quatuor dies post deliberationem inde imponet Ballium secundum legem, & obtinebit breve de Supersedeas superinde Defendens poterit procedere ad executionem non obstante tali brevi de Errore.

Et ulterius ordinat' est quod post breve de Errore debito modo allocat' & Supersedeas superinde obtent' nulla fiet Executio pro non transcribend' Record' in Bancum Regis, sine Certificatione in scriptis per Clericum Errorum, quòd querens in tali brevi de Errore ecit default' in transcribend' Record' in Bancum Regis juxta Regulam Curiæ prius de cursu dand'.

It is Ordered, That all Writs of Error shall without delay be delivered to the Clerk of the Errors for the time being, and that no person shall be hindred from suing out Execution, under pretence of any Writ of Error, before such Writ of Error be (*d*) delivered to the Clerk of the Errors, and in cases where special Bail is required, unless the Plaintiff upon such Writ of Error, shall within four days after the delivery thereof put in (*e*) Bail according to Law, and obtain a Writ of *Supersedeas* thereupon, the Defendant may proceed to Execution notwithstanding such Writ of Error.

And it is further Ordered, that after the Writ of Error in due manner to be allowed, and *Supersedeas* thereupon obtained, no execution shall be had for not transcribing the Record into the King's Bench, without Certificate in Writing by the Clerk of the Errors, that the Plaintiff in such Writ of Error makes default in transcribing the Record into the King's Bench, according to a Rule of Court before of course given.

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *W. Scroggs.*

Hil. 28 & 29 Car. II. 1676.

Fines.

Whereas several cautionary Rules have been, and are usually made by this Court, and directed to be left with the Officers, viz. *the* Custos Brevium, *Clerk of the Kings silver and Chirographer, for the staying of Fines suggested to have been acknowledged by Infants, or Feme coverts without the consent of their Husbands, or Persons of* non sane memorie, *or otherwise disabled in Law to acknowledge the same, which Rules being numerous, and the Persons concerned therein being negligent in the renewing and continuing thereof as they*

(*a*) The Court will refuse to hear Counsel upon the Argument, unless the Books are paid for, *Mich.* 6 *Geo.* II. *reg.* 3. (*b*) 3 *Jac.* I. *cap.* 8. 13 *Car.* II. *cap.* 2. *Sect.* 2. 16 & 17 *Car.* II. *cap.* 8. (*c*) *Mich.* 28 *Car.* II. *Mich.* 12 *Geo.* I. *Mich.* 6 *Geo.* II. *reg.* 6. (*d*) *Trin.* 28 *Car.* II. (*e*) *Mich.* 6 *Geo.* II. *reg.* 6. *Mich.* 12 *Geo.* I.

they ought to do every Term, and in length of Time the Parties disabled as aforesaid by Marriage or otherwise, having changed their Names: It becomes impossible for the said Officers duly to observe the said Rules incumbent on them for staying such Fines.

It is therefore Ordered that all Rules heretofore made for the staying of any Fine or Fines upon any such or the like suggestion or occasion as aforesaid, shall be renewed or continued, and Copies thereof left with the said respective Officers before the end of *Easter* Term next, or otherwise that the same be no way obligatory upon the said Officers or either of them. And that for the future all Persons making any complaint against such Fines acknowledged by Persons so disabled as aforesaid, or by any Person in the name of another, or by the like deceit, shall from Term to Term so long as they expect benefit or observance of such Rule, enter and continue the same Rule for that Term, or leave Copies thereof with the said respective Officers that the same may thereby be the better taken notice of, or in default thereof, the said Officers or any of them shall not stand farther obliged thereby.

And all Persons concerned in the obtaining or prosecuting such Rules, for the staying such Fines so levied as aforesaid, their Attorneys or Clerks are hereby enjoined every Term to search and see the Books and Entry of Fines with the Clerk of the Kingsilver, or other Officers where Entries are kept for that purpose.

In as much as it is not possible for the Officers to take that care for the stopping of such Fines and Recoveries, as by order of Court they shall be enjoined to stop, by reason of the multiplicity of old orders which are never recalled, so that they cannot know which orders are in force.

It is therefore Ordered, that for the future all manner of *(a) Caveats*, and orders for the stopping Fines and Recoveries be renewed every Term, or else to lose their force.

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *Will. Scroggs.*

Pasche, 29 Car. II. 1677.

Fines.

Forasmuch as it hath been represented to this Court by the Clerk of the Kings silver of this Court, that it is not possible for him to take care of the stopping of such Fines, as by (b) order of Court he is enjoined to stop by reason of the multitude of old orders concerning this matter, which have been granted and never recalled, so that he cannot know which orders stand in force, and which are determined.

It is therefore Ordered, that for the future all manner of *Caveats* and Orders for the stopping any Fines, shall be renewed every Term, and Copies thereof left with the Clerk of the Kingsilver, for which he is to demand only his ancient Fee of 3 *s.* and 4 *d.* the Term as aforesaid, and in default thereof, all *Caveats* that shall not be so renewed shall lose their force and be void. *(c)*

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *Will. Scroggs.*

Trin. 29 Car. II. 1677.

Attorneys.

I. *Whereas divers Complaints have been made to this Court of the manifold Inconveniences and Mischiefs that daily happen, for that many of the Officers and Attorneys of the said Court, having publick and considerable Employments in the Law, are not admitted of any of the Inns of Court or Chancery, where if they were, they might be better known and more readily resorted to, and the better manage their Affairs, but lodge and keep their Offices in places obscure and remote from the said Inns of Court and Chancery contrary to the ancient course and usage, and to the great damage of the King's People through surprizes happening and advantages thence taken and insisted upon:*

For prevention of which in time to come, It is Ordered by the Justices of this Court, that all Attorneys already admitted of this Court, (except such as dwell in *London* and *Westminster*, and the Suburbs thereof, or in the Burrough of *Southwark*, and the Liberty of St. *Katherine* near the *Tower* of *London*) shall be admitted of some of the Inns of Court or Chancery before the end of *Michaelmas* Term next coming, and take Chambers there if conveniently that may be done, else that they take Chambers or Lodgings in some convenient places near the said Inns, and leave word with the Butlers of such Inns where their Chambers or Habitations are, upon pain of being put out of the Roll of Attorneys. *(d)*

And that no Person whatsoever (except as is above excepted,) shall hereafter be sworn an Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produce in Court at the time of his being sworn, a Certificate under the Hand of

(a) Easter 29 *Car.* II. *(b) Hil.* 28 & 29 *Car.* II. *(c) Easter* 9 *Ann.* *(d) Mich.* 1654. *fol.* 1.

of the Treaſurer or Principal of the ſaid Inn whereof he is admitted, teſtifying his admiſſion, which Certificate every Attorney ſo ſworn ſhall deliver to the Clerk of the Warrants of this Court for the time being, to be by him filed before ſuch Attorney's name ſhall be entred into the Roll of Attorneys of this ſaid Court, remaining with the ſaid Clerk of the Warrants, unto which file of Certificates the Treaſurers and Principals aforeſaid may from time to time reſort as they ſhall ſee cauſe. (*a*)

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *Will. Scroggs.*

Trin. 29 Car. II. 1677.

Records.

II. IT is Ordered by this Court, that the reſpective Prothonotaries do take care that every Record of *Niſi prius* that is ſigned by them be ingroſſed in a fair legible Character, and ſo entred on the Roll, and that at the beginning of every Pleading it be begun with a new line, and the firſt word thereof in a greater Character than the reſt. And that in all Actions that have divers Narrs, they give notice thereof by Figures in the Margent of ſuch Record of *Niſi prius*. And in default thereof the ſaid Prothonotary ſign not the ſame.

And it is likewiſe Ordered that Mr. *Ingram* that doth ſign, and the reſpective Clerks of the Treaſury of this Court that do ingroſs Records of *Niſi prius*, from thence do from time to time take the ſame care of all Records made out of the ſaid Treaſury.

And that all the Records of *Niſi prius*, that ſhall be ingroſſed in this Court for the future, be of the exact breadth of the Rolls of this Court, and not broader or leſſer.

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *Will. Scroggs.*

Trin. 29 Car. II. 1677.

Attorneys.

III. *WHereas Complaints have been made to this Court, that divers Perſons have ſued out Writs of privilege and Attachments at their own Suits as Attorneys of this Court, who have either diſcontinued or had their Names put out of the Roll of Attorneys remaining with the Clerk of the Warrants of this Court, or were never entred upon the Roll, and yet have proſecuted ſuch Writs ſo as to free themſelves from Arreſts, or to force Bail where none ought to be given.*

For the prevention of which Abuſes, It is Ordered that the Clerk of the Warrants at the end of this and every other Term, ſhall certify under his Hand to the Seal-Office of this Court, the Names of all thoſe Attorneys that have diſcontinued and that are forejudged the Court, and put out of the Roll, and have not filed any Warrant of Attorney, nor continued their Names upon the Roll for above four Terms paſt, and that hereupon for ſuch Perſons no Writ of Privilege or Attachment be ſealed until they ſhall have a Certificate from the ſaid Clerk of the Warrants, or have their ſaid Writs by him ſigned, to teſtify that their Names are upon the Roll of Attorneys, for which no Fee is to be paid. (*b*)

And it is farther Ordered, that no Attorney at any time ſworn and entred upon the Roll, ſhall have his privilege as a Clerk to any Prothonotary of this Court, but only as Attorney according to the ancient cuſtom.

Fra. North, } { *Rob. Atkyns,*
Hugh Wyndham, } { *Will. Scroggs.*

Trin. 29 Car. II. 1677.

IV. *Regula generalis concernen' Recorda de Niſi prius extra Cur. hic impoſterum emanan'.*

ff. *DEcimo ſexto Junii pro meliori reformatione & prevention' multarum inconvenienciarum ratione negligenc' & dilationum diverſorum Attorn' hujus Cur' ſubdit' Dom' Regis nunc contingen' in non proſecutione Record' predict' pro triationibus exit' ad Aſſiſas infra tempus opportunum poſt clauſum Termini prox' preceden' hujuſmodi Aſſiſas contra antiquum uſum & curſum hujus Cur' Ordinat'*

IV. *A General Rule concerning the* Records of Niſi prius *hereafter iſſuing out of this Court.*

ff. *THE ſixteenth of* June; *for the better reformation and prevention of many Inconveniencies happening to the Subjects of our Lord the King that now is, by reaſon of the negligence and delay of divers Attorneys of this Court, in the not ſuing out of the ſaid Records for trials of Iſſues at the Aſſizes, within a convenient time after the end of the Term next preceding ſuch Aſſizes, contrary to the ancient uſe and courſe of this Court,* It is Ordered that the Records aforeſaid

(*a*) *Mic.* 36 *Car.* II. *Mich.* 4 *Ann.* (*b*) *Trin.* 9 *W.* III.

dinat' eſt quod omnia recorda predicta extra Cur' hic emanan' erunt ſignat' per reſpectivos Prothonotar' dict' Cur' ac ſignat' & ſigillat' per Clericum Theſaurar' vel al' perſonam in ea parte deputat' infra ſpatium trium ſeptimanarum prox' poſt finem hujus Termini & infra idem ſpatium prox' poſt clauſum cujuſlibet Termini Sancti Hillarii & cujuſlibet Termini Sanctæ Trinitatis in futur'. Et non poſtea niſi pro rationabili cauſa ſpecial' Warrant' proinde obtentum fuerit.

Per Cur'.

aforeſaid iſſuing out of this Court, ſhall be ſigned by the reſpective Prothonotaries of the ſaid Court, and ſigned and ſealed by the Clerk of the Treaſury, or other Perſon deputed in that behalf, within the ſpace of three Weeks next after the end of this Term, and within the ſame ſpace next after the end of every Term of St. *Hillary*, and of every Term of the Holy *Trinity* for the future, and not afterwards, unleſs for a reaſonable Cauſe a ſpecial Warrant ſhall be obtained for that purpoſe.

By the Court.

Fra. North, *Hugh Wyndham,* *Rob. Atkyns,* *Will. Scroggs.*

Trin. 29 Car. II. 1677.

V. *A Rule for the better obſervation of a late Act of Parliament made concerning Judgments.*

Judgments.

Whereas by an (a) Act of this preſent Parliament, it is enacted, 'That from and after the four and twentieth day of *June* next 'every Judge or Officer of this Court, that 'ſhall ſign any Judgment, ſhall at the ſign-'ing of the ſame, (without Fee for doing 'the ſame,) ſet down the day of the Month 'and Year of his ſo doing, upon the Paper 'Book which he ſhall ſo ſign, the which 'day of the Month and Year ſhall be alſo 'entred upon the Margent of the Roll of 'the Record where ſuch Judgment ſhall be 'entred'. *Now to the end the ſame may be duly and juſtly done, in purſuance of the ſaid Act,* It is ordered by this Court, that the reſpective Attorneys and Clerks of this Court that ſhall procure any Judgment to be ſo ſigned as aforeſaid, (after the ſaid 24th. day of *June*,) ſhall at the bringing in of their Rolls to the reſpective Prothonotary, at the ſame time whereon ſuch Judgments are entred, produce the reſpective Paper Books whereon ſuch Judgments are ſigned, that ſo the reſpective (b) Prothonotary may better examine the reſpective days, entred on the Margent of the Roll of each particular Judgment, that they do agree with the reſpective days, ſigned by ſuch Prothonotary on the reſpective Paper Books.

Rolls.

And to the end that the ſaid reſpective Prothonotaries may the better perform their duty herein, It is further Ordered by this Court, that every Attorney and Clerk that ſhall make ſuch Entries, ſhall bring in their reſpective Rolls to the reſpective Prothonotaries in manner and form following, that is to ſay, the Rolls of every *Trinity* Term in every Year, at or before the Feaſt day of St. *Michael* the *Archangel*, then next following, and the reſpective Rolls of every *Michaelmas* Term, in every year at or before the Feaſt day of St *Thomas* the *Apoſtle* then next likewiſe following, and alſo the reſpective Rolls of every *Hillary* Term in every year, at or before the Feaſt day of the *Annunciation* of our Lady the Virgin, then next likewiſe following, and alſo the reſpective Rolls of every *Eaſter* Term in every Year, at or before the firſt day of every *Trinity* Term in every Year, then next likewiſe following, under ſuch Pains and Puniſhments upon every Default made by any Attorney or Clerk of this Court, as this Court ſhall think fit to inflict on ſuch Defaulters. (c)

Judgments.

And it is farther Ordered, that upon the ſigning of all Judgments, by the reſpective Prothonotaries of this Court, upon *Poſteas*, Writs of *Inquiry*, ſpecial *Verdicts*, *Demurrers*, *Nul tiel Records*, *Relicta Verificatione*, and ſuch like Judgments, the ſame ſhall be delivered over forthwith after ſuch ſigning to the reſpective (d) Clerks of the Judgments in each Office, that ſo the reſpective days, being the time when ſuch Judgments are ſigned, may be drawn up in the reſpective Judgment Papers in each Prothonotaries Office, that ſo the ſame may be entred on the Margent of the Roll of every ſuch Record, where ſuch Judgment is entred.

And it is farther Ordered, that the reſpective Prothonotary ſhall not ſign any Judgment by ſuch Confeſſion, either by *non ſum informat' or nihil dic'* unleſs the ſame be brought to be (e) ſigned within 20 days after the reſpective ends of every *Trinity*, *Michaelmas* or *Hillary* Terms in every year reſpectively, and at or before the firſt day of every *Trinity* Term in every Year, unleſs ſuch Attorney or Clerk do produce before ſuch Prothonotary a Warrant, or Warrants of Attorney, that do bear date after the end of every ſuch Term, and then ſuch Judgments on ſuch Warrants ſo produced, may be ſigned at or before the Eſ-

ſoin

(a) 29 *Car.* II. *cap.* 3. (b) *Mich.* 6 *Geo.* II. *reg.* 3. (c) *Mich.* 1654. *ſect.* 7. *Eaſt.* 34 *Car.* II. *reg.* 3. *Eaſter* 5 *W. & M. reg.* 2. *Mich.* 2 *Geo.* I. (d) *Trin.* 13 *Geo.* II. *reg.* 2. (e) Judgments are now ſigned at any time in the Vacation.

ſoin day of every ſucceeding Term in every year, and not after. (a)

Fra. North, } { *Rob. Atkyns,*
Hugh Wyndham, } { *Will. Scroggs.*

Mich. 29 Car. II. 1677.

Recoveries.

THrough the great Complaints that have been made to this Court, of the neglects of Attorneys and Clerks, to file the Writs and Warrants of Attorney, whereupon common Recoveries have been ſuffered, and of the Miſchiefs that have thereupon happened;

And for the prevention of ſuch Miſchiefs and Dangers in time to come, It is Ordered, as well by the conſent of the *Cuſtos Brevium*, as of the Prothonotaries and Clerk of the Warrants of this Court, that at all times hereafter when the ſaid Prothonotaries ſhall examine, and ſign the Exemplifications of ſuch Recoveries, they in their reſpective Offices do then cauſe all the ſaid Writs, being ſealed and duly returned, and all Warrants of Attorney thereupon taken without Writ to be left in their Hands to be filed with the uſual Fees for filing the ſame, without *poſt Terminum*.

And that the ſaid *Cuſtos Brevium* and Clerk of the Warrants, or their known Deputies, ſhall receive from the ſaid Prothonotaries in their reſpective Offices, the ſaid Writs and Warrants of Attorney, with the ſaid Fees for filing thereof in manner following, to wit, for the ſaid Writs and Warrants proſecuted and perfected of this preſent Term, and every other Term of St. *Michael*, in *Eaſter* Term then next following, and for the ſaid Writs and Warrants of Attorney, of every *Hillary* Term, in *Trinity* Term next after, and for the ſaid Writs and Warrants of Attorney, of every *Eaſter* Term, in *Michaelmas* Term next after, and for the ſaid Writs and Warrants of Attorney of every *Trinity* Term, in *Hillary* Term then next following.

And that the ſaid *Cuſtos Brevium*, and Clerk of the Warrants, or their ſaid Deputies, ſhall give Receipts under their Hand of all ſuch Writs and Warrants, as ſhall be from time to time received from each of the ſaid Prothonotaries by way of Duplicate, containing the County where the Lands lie, the Names of the Demandants, Tenants, and Vouchees, who come in by Writs of Summons; and alſo of the Attornies and Clerks Names, who proſecuted the ſaid Recoveries.

Fra. North, } { *Rob. Atkins,*
Hugh Wyndham, } { *Will. Scroggs.*

Paſch. 30 Car. II. 1678.

Regula pro manu Attorn' generalis ad brevia de Ingreſſu habend'.

A Rule for the Attorney General's Hand to be had to Writs *of* Entry.

ff. *Viceſimo quinto* Aprilis, *Cum nuper ſcilicet Termino Sancti* Michaelis *ult' præterito pro evitatione errorum ſæpiſſime contingen' per negligentiam Attorn' & Clericorum Curiæ hic in defectu debite proſecutionis & filationis brevium de Ingreſſu Sum' Sei'a & Warrant' Attorn' ſuper quibus Cei'a Recuperat' extitiſſent permiſſa Ordinat' fuiſſet per Cur' ex aſſenſu Cuſtod' brevium Prothonotariorum & Clerici Warrant' hujus Cur' quod quandocunque Prothonotarii predicti in eorum Officiis reſpective examinarent & ſignarent aliquod Recuperar' per Curiam hic exemplificat' iidem Prothonotarii viderent quod Brevia & Warrant' predict' debite execut' & retornat' & in eorum Prothonotar' manibus reſpective relict' eſſent cum uſual' feodis pro affilatione eorund' Jam ex querela* Willielmi Jones *Militis Attorn' Dom' Regis generalis Juſtic' Cur' hic fact' quod quidam Attorn' & Clerici ejuſdem Cur' brevia ſua de Ingreſſu per ipſum Attorn' generalem ſub manu ſua ſignand' ut officio ſuo pertin' juxta Antiquum Curſum inferre neglexiſſent in defraudatione ipſius Attorn' general' de feodis ſuis in ea parte.*

Ordinat' eſt quod Prothonotar' predict' de futuro ſuper examinatione,

ff. *THE* 25*th.* April, *Whereas lately, to wit, in the Term of St.* Michael *laſt paſt, for the avoiding of Errors oftentimes happening by the negligence of Attorneys and Clerks of the Court here, for want of due Proſecution and filing of Writs of Entry, Summons, Seiſin and Warrants of Attorney, upon which common Recoveries are ſuffered, It was Ordered by the Court, by the Aſſent of the* Cuſtos Brevium, *Prothonotaries, and Clerk of the Warrants of this Court,*

'*That whenſoever the ſaid*
'*Prothonotaries in their*
'*Offices reſpectively, ſhould*
'*examine and ſign any*
'*Recovery by the Court*
'*here exemplified, the ſaid*
'*Prothonotaries ſhould ſee*
'*that the Writs and War-*
'*rants aforeſaid ſhould be*
'*duely executed and re-*
'*turned, and left in the*
'*Hands of thoſe Prothono-*
'*taries reſpectively, with*
'*the uſual Fees for the fi-*
'*ling of the ſame'. Now upon Complaint of Sir* William Jones, *Attorney General of our Lord the King, to the Juſtices of this Court made, that certain Attorneys and Clerks of this Court have neglected to bring their Writs of Entry to be ſigned by him the ſaid Attorney General under his Hand, as belongs to his Office according to the ancient Courſe, in Fraud of the ſaid Attorney General of his Fees in that behalf.*

It is Ordered that the ſaid Prothonotaries for the future, on Examination and

(a) *Mich.* 1654. *ſect.* 25.

tione & fiat' tal' Recuperar' curam b'tant, quod quodlibet tale breve de ingressu fignat' fit per dict' Attorn' generalem, Alit. iidem Prothonotarii ad fignand' tales exemplificationes totaliter abstineant quousque breve inde ita fignat' fuit, & dict' Attorn' general' desideratur quod ipsa brevia predicta pro manu sua habend' sibi deliberat' sine dilatione signare voluerit.

Per Cur'

and Signing of such Recoveries, shall take care that every such Writ of Entry be signed by the said Attorney General, otherwise the said Prothonotaries shall not sign such Exemplifications until the Writ thereof shall be so signed, and the said Attorney General is desired to sign without delay the said Writs delivered to him for his Hand to them. (*a*)

By the Court.

Fra. North, } { *Rob. Atkyns,*
Hugh Wyndham, } { *Will. Scroggs.*

Mich. 30 Car. II. 1678.

Original Writs.

Whereas Attorneys of late have used to sue forth Original Writs in Trespass, and thereupon have taken out Process of Capias, Alias, *and* Pluries, *&c. and afterwards declared and proceeded to Judgment in Debt, Covenant, Ejectment, &c. without suing forth any new Original, to warrant such Declarations and Judgments, contrary to Law, and in Wrong and Fraud of the Great Seal of* England, *his Majesty's Fines upon Originals and the Law duty;*

It is hereby Ordered, that for the future, no Attorney for the Plaintiff shall presume to deliver, or Attorney for the Defendant to receive by himself or his Agents, any Declaration, without an Original proper to the Cause of Action first sued forth to warrant the same.

Fra. North, } { *Rob. Atkyns.*
Hugh Wyndham, } { *B. Bertie.*

Trin. 32 Car. II. 1680.

Regula generalis quoad Narrationes in ejectione firme in London *& in Com'* Midd'.

ff. *Vicesimo primo* Junii *Ordinat' est quod Queren' vel eor' Attorn' seve partes quæ deliberari fac' Narrationes in placito predicto in dict' Com'* Midd' *&* Lond, *super tali deliberatione inde denunciabunt tenen' in possessione tentor' in questione respective quod ipsi compareant per Attorn' Cur' hic in defensione tituli in'r initio prox' Termini prox' post deliberation' Narr' ill' fact'*

Et ulterius Ordinat' est quod queren' predicti de cetero nil capient per Motionem in Cur' hic fiend' ad judicium versus casualem ejectorem pro defectu comparencie habend. Nisi hujusmodi motio fiat infra unam septimanam prox' post primum diem cujuslibet Termini sancti Mich. *Et cujuslibet Termini* Pasche, *et infra quatuor dies prox' post primum diem cujuslibet Termini sancti* Hil. *& cujuslibet Termini sanctæ* Trin.

Per Cur'

A General Rule as to Declarations in Ejectment in London *and the County of* Middlesex.

ff. ON the 21st. *June* It is Ordered that the Plaintiffs or their Attornies, or the Parties which cause Declaration to be delivered in the Plea aforesaid in the said County of *Middlesex* and *London*, upon such Delivery thereof, shall tell the Tenants in Possession of the Tenements in Question respectively, that they are to appear by an Attorney of this Court in Defence of the Title thereof, in the (*b*) beginning of the Term next after the Delivery of such Declaration.

And it is further Ordered, that the aforesaid Plaintiffs for the future shall take nothing by Motion made in this Court for Judgment against the casual Ejector for Default of Appearance, unless such Motion be made within one Week (*c*) next after the first day of every *Michaelmas* Term, and of every *Easter* Term, and within four days next after the first day of every *Hillary* Term and of every *Trinity* Term.

By the Court.

(*a*) *Easter*, 34 *reg.* 2. (*b*) Uncertain. See *Thredder* versus *Travis ante.* (*c*) This does not extend to Ejectments where the Possession is vacant. *Ante, Positive* v. *Negative.*

Trin. 33 Car. II. 1681.

Generalis regula pro Cuſtagiis ſuper proſecutione ad utlagar'.

A General Rule for Coſts upon a Proſecution to an Outlawry.

ff. *Vicesimo ſecundo* Junii *Ordinat' eſt quod nullus Defendens qui in vel poſt menſem Sancti* Mich. *prox' fuit utlagat' fuit, Ac qui comparebit & utlagar' reverſari faciat ſuper reverſatione ill' ſolvet pro cuſtag' queren' aliquam denarior' Summam exceden' uſual' cuſtagia* de Exigend' *in iſta Cur' una cum fine Domino Regi ſuper brevi originali ſi quis ſolut' fuit. Et quod omnia ulteriora Cuſtagia reſpectuant' uſque tempus ſignandi Judicium pro Queren'.*

Et ulterius Ordinat' eſt quod quilibet Defendens ſic utlagat' & utlagar' illam reverſari faciens ſi Querens ſuper inde non proceſſit infra duos Terminos prox' poſt notitiam reverſationis inde, habebit Cuſtagia per Prothonotarium taxand'.

Per Cur'.

ff. THE 22d. of *June*, It is Ordered that no Defendant, who in or after the Month of St. *Michael* next coming ſhall be Outlawed, and who ſhall appear and reverſe the Outlawry, ſhall upon ſuch Reverſal pay for Coſts to the Plaintiff any Sum of Money, exceeding the uſual Coſts of the Exigent in this Court, together with the Fine to our Lord the King, upon the Original Writ, if any was paid, and that all further Coſts ſhall be reſpited, until the time of ſigning Judgment for the Plaintiff. *(a)*

And it is further Ordered that every Defendant ſo Outlawed and reverſing ſuch Outlawry, if the Plaintiff ſhall not proceed thereupon, within two Terms next after notice of the Reverſal thereof, ſhall have Coſts to be taxed by the Prothonotary.

By the Court

Paſche, 34 Car. II.

I. *Regula generalis de Statuto penali.*

I. *A General Rule concerning a penal Statute.*

ff. *Sexto* Maii *Ordinat' eſt quod quandocunque actio per aliquem qui tam, &c. pro Domino Rege ſuper aliquo ſtatuto pœnali proſecut' & triata fuit & ubi veredictum pro Domino Rege reddi' fuit le poſtea primo die prox' Termini prox' poſt veredictum præd' Sic reddit' per Clericum Aſſiſar' retornat' deliberetur in hanc Cur' ad manus Prothonotarii in cujus Officio cauſa exiſtit & minime parti proſequen' & quod judicium ſuper inde intretur de Recordo ita quod pars illa pœnalitat' quæ Domino Regi pertinet debite levari poſſit.*

ff. THE 6th of *May* It is Ordered, that whenſoever an Action by any *Qui tam* for our Lord the King, &c. upon any penal Statute hath been proſecuted and tried, and where a Verdict for our Lord the King hath been given, the *Poſtea* returned by the Clerk of the Aſſizes the firſt day of the next Term next after ſuch Verdict ſo given, ſhall be delivered into this Court into the Hands of the Prothonotary in whoſe Office the Cauſe is, and not to the Proſecutor, and that Judgment thereupon ſhall be entred on Record, ſo that that Part of the Penalty which belongs to our Lord the King may be duly levied.

And it is further Ordered, that when Judgment hath been entred of Record, a Note or Precipe of that Record with the Number of the Roll thereof ſhall be delivered by the Clerk of the Judgments, to the Clerk of the Warrants of this Court, that the Sum or Fine which to the ſaid Lord the King ſo belongs, by the Clerk of the Warrants amongſt others, in the Sum of our ſaid Lord the King may be duly extracted, and that the Clerk of the Warrants for the Receipt of ſuch Note or Precipe, ſhall put his Hand to the Paper of the Clerk of the Judgments, for entring the Judgment aforeſaid.

By the Court.

Et ulterius Ordinat' eſt quod cum judicium intrat' fuit de Recordo Nota ſive Præcipe Recordi illius cum Numero Rotuli inde deliberetur per Clericum Judicior' Clerico Warrant' hujus Cur' ut ſumma ſive finis ille Domino Regi ſic pertinens per ipſum Clericum Warrant' inter al' in Sum' dicti Domini Regis debite extrahetur Quodque idem Clericus Warrant' pro receptione talis Notæ ſive Præcipe manum ſuam apponet ad papirum Clerici Judicior' pro Judicio præd' intrand.

Per Cur'.

Eaſter, 34 Car. II. 1682.

II. *Regula pro manu Attorn' general' ad Brevia de Ingreſſu habend'.*

II. *A Rule for the Attorney General's Hand to be had to* Writs *of* Entry.

ff. *Decimo tertio* Maii *Super querimonia* Roberti Sawyer *Militis Attorn' Domini Regis generalis Juſtic' Cur' hic fact' quod quamplurima Brevia de Ingreſſu in le poſt quæ per ipſum ut Attorn' general'*

ff. *THE* 13th. *of* May, *Upon Complaint of Sir* Robert Sawyer, *Kt. the King's Attorney General, made to the Juſtices of this Court, that many Writs of Entry in* le poſt, *which by him as Attorney General under his Hand ought to be ſigned, have been hitherto pro-*

(a) Except, where the Extent is returnable in the Exchequer, *Trin.* 2 *Ja.* II.

generalis sub manu sua signari debeant per diversas Attorn' & Clericos hujus Cur' adhuc prosecut' sunt, Et sine manu ipsius Attorn' generalis prius habit' affilantur in defraudationem ejusdem Attorn' de feod' suis & contra regulam Cur' hic in ea parte fact', Ordinat' est quod Prothonotar' hujus Cur' curam habeant & quilibet eorum in Officio suo respective videat cum examinavit aliquod Recuperar' per Breve de Ingressu pred' quod Breve illud per pred' Attorn' generalem sub manu sua signetur Quodque Prothonotarius nullum tale Breve ad affiland' recipiet Nisi per pred' Attorn' ita signat' fuit.

Per Cur'

prosecuted by divers Attorneys and Clerks of this Court, and without the Hand of the said Attorney General first had, are affiled in Fraud of the said Attorney General of his Fees, and against the (a) Rule of Court here in that behalf made. It is Ordered, That the Prothonotaries of this Court take care, and that every one of them in his Office respectively see, when he hath examined any Recovery by the said Writ of Entry, that that Writ be signed by the Attorney General, and that the Prothonotary shall receive no such Writ to be filed unless it hath been signed by the Attorney General aforesaid.

By the Court.

Easter, 34 Car. II. 1682.

Bringing in Rolls.

III. *THE Justices of this Court taking (b) notice, and considering the great Mischiefs which may and do happen, by reason that several Attorneys and Clerks of this Court, to whom the Prothonotaries of this Court have delivered Rolls, have not in due time brought them back to be filed, whereby they have been in danger to be lost, and subject to have Judgments unduly entred upon them, to the great damage of Purchasors, and scandal of the Court.*

For prevention of which Mischiefs **It is now Ordered**, that none of the Prothonotaries of this Court shall hereafter deliver any Roll or Rolls to any such Attorney or Clerk, who appears to be a defaulter against this Order, in not bringing back his Rolls in due time, until they shall have brought in respectively such Roll or Rolls that they had delivered unto them;

And that it may appear in whose Custody all Rolls are, **It is farther Ordered** that for the future, every Attorney or Clerk that shall receive any Roll, either Plea or Common from the respective Prothonotaries of this Court, shall sign and set his own Hand to such Prothonotaries Book, from whom they shall receive the same, for the receipt of such Roll or Rolls, and that no Prothonotary do deliver any Rolls to any other, but to the proper Hands of some known Attorney or Clerk of their respective Offices.

And it is farther Ordered, that the said respective Prothonotaries of this Court, do and shall the first day of every Term for the future take an account of what Rolls are wanting, of the precedent Term in their respective Offices, and shall respectively render an account thereof to this Court, the second day of the succeeding Term, that so the Court may take order for the bringing them in.

And it is farther Ordered, that every Attorney and Clerk of this Court that shall receive any Roll or Rolls as aforesaid, Plea or Common of this or any other *Easter* Term for the future, shall bring in the same to the Office from whence he received the same, at or before the first day of the next *Trinity* Term, and that the Rolls received of any *Trinity* Term for the future, shall be brought into such Office, at or before the Feast day of St. *Michael* the Archangel next ensuing the said Term yearly; and that Rolls received of any *Michaelmas* Term, for the future, shall be brought into such Office at or before the sixth day of *January* next after the said Term yearly. And that the Rolls received of any *Hillary* Term for the future, shall be brought into such Office, by the space of four days before the Feast of *Easter* next, after the said Term yearly. (c)

And it is further Order'd by this Court, that the Clerk of the Essoyns for the future shall not presume to deliver any post Rolls, or other Rolls of this Court, to any Attorney or Clerk of this Court, but to the respective Prothonotaries, and other Officers of this Court, that have a right to such Rolls.

And if any Attorney or Clerk of this Court shall at any time for the future presume to carry any of the Rolls of this Court into the Country after they have been delivered to them by the respective Officers, to enter Causes there, contrary to the ancient Rules and Orders of this Court, this Court doth declare, that they will cause all the Penalties to be inflicted on such Persons as shall act to the contrary, and upon notice of such Offenders, the Court will farther proceed against them as Contemners of the Rules of this Court.

Fra. North, *Job Charlton,*
Hugh Wyndham, } *Creswell Levinz.*

Mich.

(a) *Easter*, 30 *Car.* II. & *M. reg.* 2. (b) *Mich.* 1654. *fol.* 7. *Trin.* 29 Car. II. *reg.* 5. *Mich.* 2 *Geo.* I. (c) *East.* 5 *W.*

Mich. 36 Car. II. 1684.

De Termino Sancti Michaelis Anno Regni Domini Caroli Secundi nunc Regis Angliæ, &c. tricesimo sexto.

Concerning the Admittance of Attorneys of some of the Inns of Court or Chancery.

Whereas divers Complaints have been made to this Court, that manifold Inconveniencies daily happen for that many Clerks and Attorneys of this Court have not been admitted of any of the Inns of Court or Chancery; which, if they were, they might be better known and more readily referred to, whereby Business of Law might be better managed, which cannot be so easily done if Clerks and Attorneys of this Court be permitted to lodge out of the Inns of Court or Chancery, contrary to the ancient usage, and to the great damage of the King's People, through surprises thence taken and insisted upon; and to the detriment and decay of the Societies of Law:

For prevention of which Inconveniencies, and to establish a remedy for the future, It is Ordered by this Court, that all Clerks and Attorneys of this Court already admitted of this Court (not already admitted in some of the Inns of Court or Inns of Chancery) shall be admitted into some of the Inns of Court (if those Honourable Societies shall please to admit them) or into some of the Inns of Chancery before the end of *Hilary* Term now next ensuing, and take Chambers there (if conveniently it may be done) else that they take Lodgings in convenient places near the said Inns, and leave word with the Butlers or Porters of such Inn where their Chambers or Habitations are, upon pain of being put out of the Prothonotary's Book and the Roll of Attorneys, except such Persons who are and shall be hereafter House-keepers in *London*, *Westminster*, *Southwark*, or the Suburbs thereof, and the Liberty of the *Tower* of *London*, and St. *Katherine*'s there, and such who are sworn Attorneys of any Courts within the said Cities, Town and Liberties; and that no Person whatsoever shall hereafter be admitted or sworn a Clerk and Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produce at the time of his being admitted or sworn, a Certificate under the Hand of the Treasurer or Principal of the said Inn whereof he is admitted (without paying any thing for the same) testifying his admission; which Certificate every Clerk so to be admitted shall deliver to the Prothonotary, in whose Office he shall be so admitted, to be by him filed before such Clerk's Name be entred into the Prothonotary's Book, by him kept for that purpose; and every Attorney so sworn such Certificate shall deliver to the Clerk of the Warrants of this Court for the time being, to be by him filed before such Attorney's Name be entred into the Roll of Attorneys of the said Court remaining with the said Clerk of the Warrants, unto which File of Certificates the Treasurers and Principals may from time to time resort, as they shall see cause.

And it is further Ordered by this Court, that in case any Clerk or Attorney of this Court already admitted, or hereafter to be admitted into one of the Societies aforesaid, do put himself out of the said Society whereof he stands admitted, that then he shall within one Term after he shall so put himself out of the said Society admit himself into another of the said Societies.

And in case any Clerk or Attorney offend against this Rule, he is to be put out of the Prothonotaries Book or Roll of Attorneys until he give Obedience unto the same; and the Prothonotaries and Secondaries, and all other Officers whom it may concern, are required to give obedience to this Order, and to see that the same (as to themselves) be duly observed. (*a*)

Tho. Jones, *Cresswell Levinz*,
J. Charlton, *J. Street*.

RULES and ORDERS OF THE Court of Common Pleas.

De Termino Paſch. Anno Regni Regis Jacobi Secundi primo, 1685.

An Order Concerning Attorneys ſuffering others to practiſe in their Names.

Signed by *Tho. Jones*, *J. Charlton*, *Creſw. Levinz*, *J. Street*.

This Order being the ſame with that made Hil. 14 & 15 Car. II. reg. 2. *is therefore omitted, nor is it now to be found among the Rules hung up in the Treaſury.*

Easter,

(*a*) *Mich.* 1654. *ſect.* 1. *Trin.* 1677. *Mich.* 1705.

Easter, 1 Ja. II. 1685.

Term. Pasch. anno primo Jac. II. Regis.

Ne Recipiaturs.

II. *Whereas great Inconveniencies have often happened by reason of the late entring of Causes in the Marshals Book to be tried in* London *and* Middlesex, *before the Lord Chief Justice of his Majesty's Court of Common Pleas, and the uncertainty of entring* Ne recipiaturs;

It is therefore Ordered by the Lord Chief Justice of his said Majesty's Court of Common Pleas, that all Attorneys of the said Court, that shall have any Records of *Nisi prius* to be tried before his Lordship in the *Guild-hall, London*, or at *Westminster-hall*, shall enter the same in the Marshals Book, two days at the least exclusive, before the day of Trial, according to the antient course, or in default thereof, a *Ne recipiatur* may be entred. (*a*)

Tho. Jones.

De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi secundi primo, 1685.

An Order Concerning Sheriffs making Deputies and returning of Writs.

Signed by { *Tho. Jones, J. Charlton, Cresw. Levinz, T. Street.*

This Rule being the same Verbatim *as the Rule made* Hil. 14 & 15 Car. II. *is therefore omitted.*

Easter, 2 Jac. II. 1686.

De Termino Pasch. Anno secundo Jacobi secundi Regis.

Concerning Clerks of Assise, and the Lord Chief Justice's Associate returning Postea's *by a time limited.*

THE King's *Majesty's Justices of this Place, taking notice that divers of his Majesty's good Subjects of this Realm of* England, *concerned in Suits depending in this Court, have of late time been very much delayed, and put to great Trouble and Charge, in attendance and otherwise, by reason that the Clerks of Assise within the respective Circuits of this Kingdom, have neglected to make returns of the Records of* Nisi prius *or* Postea's *in this Court, at the days in bank, as the Law requires, and the ancient usage hath been; and through default of the said Clerks of Assise, the said Justices of this Court cannot be legally informed of the Matters acted at the Assises; which only can appear upon the return of the* Postea. *And therefore are enforced, very often, to defer their giving of Judgment unto further days, contrary to the good liking of the said Justices whereby the People are much prejudiced, and thereof have made many Complaints to this Court.*

The said Justices being desirous to prevent the like Inconveniencies for the future, and as much as in them lieth to provide a fit remedy, do Order, That every Clerk of Assise of the respective Circuits within this Realm of *England*, and also the Associate to the Lord Chief Justice of this Court, shall make returns of all *Posteas* upon all Records issuing out of this Court, whereupon any Proceedings have been, by virtue of any Writ of *Nisi prius, Distringas, Habeas Corpora Jur'*, and shall cause the same to be delivered to the respective Prothonotaries of this Court, upon the *quarto die post*, of the return of the Writ of *Nisi prius* in Bank, upon pain of forfeiting the sum of twenty Pounds, to be estreated into the King's Majesty's Court of Exchequer.

And that all pretence of excuse may be taken away, and due observation of this Order may be had and made, It is further Ordered by the said Justices of this Court, that the respective Clerk of Assise in the respective Circuits, and also the said Associate in *London* and *Middlesex*, at the Trial of every Cause by Record of *Nisi prius* issuing out of this Court, shall take the Fees due unto them respectively, for the return of every such *Postea*.

Hen. Bedingfield, T. Street, } *Ed. Lutwyche, John Powell.*

Trin. 2 Jac. II. 1686.

De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi *secundi secundo.*

Reversing Outlawries.

Whereas upon Complaint made unto this Court by Sir Robert Sawyer, *Kt. his Majesty's Attorney General, that several Defendants*

O

(*a*) *Hil.* 8 *Geo.* I. *reg.* 2. *ante, May* v. *Annis.*

ſendants for not appearing upon the Exigent being returned Outlawed continue in Contempt till after the Death of the Plaintiff, and before ſuch time as the Executor or Adminiſtrator of the Plaintiff could have knowledge, or before the Will proved or Letters of Adminiſtration granted, ſuch Defendants privately without ſpecial Bail, and contrary to ſeveral particular Orders of this Court heretofore in that behalf made, have reverſed the ſaid Outlawries to the prejudice of the King's Intereſt, though the Defendants, by reaſon of the Plaintiff's Death, are not leſs in Contempt than before, nor the Outlawry in the leaſt to abate by reaſon thereof.

Now for the prevention of the like Miſchief, It is Ordered, that no Outlawry for the future after the Death of the Plaintiff in the Action be reverſed without the Defendant's appearance and putting in ſpecial Bail, (if the Action ſo requires) to the Executor or Adminiſtrator of the Plaintiff or to the Husband and Wife in caſe where the Wife, whilſt a *feme ſole* ſued the Defendant to an Outlawry before Marriage.

Provided that the Plaintiffs Attorney to the Writ of Exigent or *Capias Utlagatum* do within fourteen days after notice to him given of the Defendant's intention to reverſe ſuch Outlawry *(a) (deliver)* the Name or Names of the Executor or Adminiſtrator of ſuch Plaintiff or Plaintiffs deceaſed to the proper Prothonotary of this Court.

And for the better execution of the Proceſs of Outlawry to be made and iſſued by and out of this Court, and the prevention of divers Abuſes by neglect of the ſame, and for the better regulating of the reverſal of Outlawries.

It is Ordered, That upon every Writ of Exigent which ſhall be ſued forth of this Court from and after this Term, if a *Superſedeas* be not put in thereunto, at or before the day of appearance thereof, that no *Superſedeas* ſhall by any Sheriff be allowed to any ſuch Writ until the Defendant ſhall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof the full and juſt Coſts of Suit therein.

And that upon reverſing all and every Outlawry the party Defendant which reverſeth the ſame ſhall before the reverſal thereof, or any *Superſedeas* made thereunto, give ſpecial *(b)* Bail if the Sum of Money or Damages expreſſed in the Original whereupon the Exigent was awarded ſhall amount to the Sum of ten pounds or upward, and pay to the Plaintiff or his Attorney, or leave in the Court for him or them the full and juſt Coſts of Suit to the Exigent as aforeſaid.

And where the Plaintiff by virtue of ſuch Outlawry hath taken an Inquiſition, and extended into the King's Hands the Goods, Chattels, Lands or Tenements of the Outlawed Perſon, and returned the ſame into the *Exchequer*, ſuch further juſt and reaſonable Coſts *(c)* ſhall then be taxed by the Prothonotary, and likewiſe paid to the Plaintiff or his Attorney, or left in Court for him or them as the Plaintiff hath been at in taking and proſecuting the ſaid Inquiſition before any Certificate of ſuch reverſal ſhall be made by the Clerk of the Outlawries in that behalf.

And for the prevention of the great and common Abuſe by Sheriffs Officers and Bailiffs for *(d)* enlarging of Perſons arreſted upon *Capias Utlagatum* before Judgment without a lawful *Superſedeas* in that behalf firſt delivered unto him or them, that upon Affidavit thereof made and filed every Perſon offending therein ſhall pay the ſum of Forty Shillings to the party grieved, who ſhall have an Attachment of courſe againſt ſuch Sheriff, Officer, Bailiff, or party offending for payment of the ſame, and the party or parties ſo offending ſhall likewiſe undergo ſuch other puniſhment as by the Court ſhall be thought fit.

Henry Bedingfield, *T. Street*, } *Ed. Lutwyche*, *Joh. Powell.*

Hil. 2 & 3 Ja. II. 1686.

De Termino Sancti Hillarii Anno Regni Domini Jacobi *ſecundi Regis ſecundo & tertio.*

Warrants of Attorney.

WHereas by the ancient practice of this Court it hath been uſed and not only provided by ſeveral (e) Acts of Parliament in that caſe made under great penalties, but alſo by ſeveral Orders of this Court purſuant thereunto that every Attorney as well for the Plaintiff as Defendant in any Action, Suit or Plea in this Court depending ſhould deliver his Warrants of Attorney in every ſuch Action, Suit or Plea wherein he is named Attorney, to be entred and filed on Record with the proper Officer appointed to receive and file the ſame; notwithſtanding which ancient Practice, Statutes and Orders, many Attorneys not regarding their Oaths, nor fearing the penalties in the ſaid Statutes and Orders provided, do neglect to file their Warrants of Attorney, eſpecially upon Iſſues joined and Proceſs to the Outlawry;

(a) (*Deliver* is not in the Rule.) *(b) Mich.* 12 *Geo.* I. *Hil.* 2 *Car.* I. *Trin.* 24 *Eliz.* *(c) Trin.* 33 *Car.* II. *Trin.* 1 *W. & M.*
(d) Mi. 1654. *Sect.* 9. *Hil.* 15 & 16 *Car.* II. *Mich.* 17 *Car.* II.
(e) Stat. 32 *H.* 8. *c.* 30—18 *El. c.* 14.

For remedy whereof It is further Ordered by the Lord Chief Juſtice, and other the Juſtices of this Court, that from henceforth every Plaintiff's Attorney who ſhall proſecute any Cauſe to Iſſue, ſhall upon the delivery of the Copy of ſuch Iſſue receive of the Defendant's Attorney the Fee for the filing his Warrant therein, and in caſe the Defendant's Attorney ſhall refuſe to pay the Plaintiff's Attorney for the ſame, that the Plaintiffs Attorney ſhall ſign Judgment in like caſe, as if the Defendant's Attorney had refuſed to pay for the Copy of the Iſſue or Entry of his Plea, which ſaid Plaintiff's Attorney ſhall file as well the Defendant's as Plaintiff's Warrant of Attorney before his making up his Record therein.

And to the end this Order may be the more effectually obſerved, It is further Ordered, that the Clerk of the Treaſury for the time being ſhall not for the future ſign or ſeal any Record of *Niſi prius*, unleſs the ſame be firſt ſigned or ſtamped by the Clerk of the Warrants or his Deputy, to the end it may thereby appear that the Warrants of Attorney are duly filed.

And it is likewiſe Ordered, that no Exigenter ſhall receive any *Pluries Capias* in order to make an Exigent or Proclamation thereon before the ſame be ſigned or ſtamped by the ſaid Clerk of the Warrants or his Deputy, to the end it may likewiſe thereby appear that the Warrants of Attorney therein are duly filed.

And for the more eaſy diſpatch of Buſineſs, It is further Ordered, that the Clerk of the Warrants by his Deputy or other Clerk attend at the Treaſury Chamber where the Records of *Niſi prius* are ſealed, three Weeks after every Iſſuable Term, or ſo long as Records are ſealed without a Judge's Warrant, there to receive and take the ſaid Warrants of Attorney.

Hen. Bedingfield, *Ed. Lutwyche.*
T. Street, *Joh. Powell.*

RULES and ORDERS OF THE Court of Common Pleas.

Trin. 1 W. & M. 1689.

An Order upon Outlawries tranſcribed into the Court of Exchequer.

WHERE any Outlawry ſhall be tranſcribed into this Court and Proceſs made out thereupon, and afterwards ſuch Outlawry ſhall be reverſed before any Judgment ſhall be entred for removing the King's Hands, and the Party Outlawed reſtored to his Poſſeſſion, the Proſecutor of ſuch Outlawry ſhall be paid ſuch Coſts as ſhall be taxed by their Majeſty's Remembrancer or his Deputy for the Proceedings in this Court. *(a)*

Lunæ xiii Maii 1689.

It is this day Ordered by the Court that the Rule abovementioned ſhall be made an order of this Court, and that the ſame ſhall be entred amongſt the Orders and Rules of this Court.

R. Atkins, *N. Lechmere,*
Ed. Nevill, *Jo. Turton.*

Trin. 1 W. & M. 1689.

De Termino Sanctæ Trinitatis Anno primo Gulielmi & Mariæ.

Bail. Filacer.

II. *WHereas very many Miſchiefs and Inconveniencies do ariſe unto the Plaintiffs in Cauſes depending in this Court whoſe chief deſign in bringing their Actions is many times to get good Bail thereunto, and thereby to ſecure their Debts,* It is Ordered, this preſent *Trinity* Term, that the Defendant or their Attorneys who ſhall hereafter put in any Bail to any *Capias ad reſpondend.* or other Filacers Writ, ſhall duly have recourſe to the proper Filacer, in whoſe Office ſuch Bail ought to be

(a) *Trin.* 2 *Ja.* II.

be entred, and ſhall with him or his Clerk either come into this Court, or with him or his Clerk attend one of the Judges thereof to take the ſame; and in caſe any Filacers Bail ſhall be taken contrary to this Order (except it be taken in the Circuit, which if delivered to the proper Filacer by the firſt day of the ſucceeding Term, that ſo he may have time to enter it upon Record, ſhall be as good as ſuch as are taken, as is above ordered) this Court will puniſh ſuch Contempt. And in order to make the Attorney for the Defendant vigilant in his Client's Buſineſs this Court doth further declare, that where any Filacer's Bail is taken without the *(a)* proper Filacer it is as no Bail, the Plaintiff is at Liberty to proceed on the Sheriff's Bond as if no ſuch Bail were ever put in; and that before the Defendant ſhall be admitted to plead to the original Action he ſhall pay full Coſts to the Plaintiff.

Hen. Pollexfen, } { *Tho. Rokeby,*
Joh. Powell, } { *P. Ventris.*

Trin. 2 W. & M. 1690.

De Termino Sanctæ Trinitatis Anno Gulielmi & Mariæ *ſecundo.*

Filacers. Sheriffs.

1. *TO prevent the Miſchiefs and Inconveniencies that may attend the entring and doing Buſineſs in wrong Offices, and the Injury that muſt neceſſarily follow to the proper Officers,* It is Ordered this preſent *Trinity* Term that all Rules for the Sheriff to bring in the Body of a Priſoner taken upon any Proceſs, which hath or ſhall Iſſue, or which ought to iſſue out of the Office of any Filacer be for the future given by the Filacer from whom ſuch Proceſs iſſued, or ought to have iſſued, and by none other, whereof the Attorneys, Clerks, Under-Sheriffs of the ſeveral Counties, and all others whom it may concern are to take notice. *(b)*

Hen. Pollexfen, } { *Tho. Rokeby,*
Joh. Powell, } { *P. Ventris.*

Trin. 2 W. & M. 1690.

De Termino Sanctæ Trinitatis Anno ſecundo Willielmi & Mariæ *Regis & Reginæ Angliæ, &c.*

Affidavits.

II. *WHereas upon Examination it appears to us that divers Perſons have taken upon them to take Affidavits in the Country (which have been filed and made uſe of in this Court) without being authorized thereunto as the Statute directs.*

We do therefore for the preventing the like abuſe for the future, Order, that the Secondaries of the ſeveral Offices ſhall not file any Affidavits taken before any Perſon that is not Commiſſioned to do the ſame; and to that end Books of the Names of all ſuch Perſons as are or ſhall be lawfully authorized to take Affidavits in the Country to be made uſe of in this Court ſhall be delivered to, and kept by the ſaid Secondaries, and that no Affidavit *(c)* ſhall be read in Court before the ſame be filed.

Hen. Pollexfen, } { *Tho. Rokeby,*
John Powell, } { *P. Ventris.*

10 Mar. 1692. 5th. W. & M.

Orders to be obſerved by Commiſſioners impowered by Commiſſion, in purſuance of an (d) Act of Parliament for taking Special Bails in the Country upon Actions and Suits depending, or to be depending in their Majeſties Court of Common Pleas at Weſtminſter.

Bail.

FIrſt, It is Ordered, that before any Bail be taken by Virtue of the ſaid Act, a true Copy of the Writ on Parchment to which the Defendant is to put in Bail, ſhall be brought to the Commiſſioner before whom ſuch Bail is to be taken; and thereupon the Recognizance or Bail-piece ſhall be fairly drawn and ingroſſed on the ſaid Parchment Copy, in this or the like Form as the Caſe ſhall be, *viz.*

Manucaptores Johannes Denn *de* Blackbarneſley *in Paroch. de* Settle *in Com.* Ebor. *Gen. &* Richardus Fenn *de eadem Gen.*

The Bail *John Denn* of *Blackbarneſley* in the Pariſh of *Settle* in the County of *York*, Gent. and *Richard Fenn* of the ſame, Gent.

A. B. *Attorn' pro Defend'.*	*Pars ipſa in* xx *l.* *Uterque* M. *in* x *l.*	A. B. *Attorney for the Defendant.*	The Defendant in xx *l.* Each of the Bail in x *l.*

Capt. & cognit. decimo die Martii *Anno Dom.* 1692. de bene eſſe *coram me* A. B. *Un' Commiſſionar'.*

Taken and acknowledged the 10th day of *March* in the Year of our Lord 1692, conditionally before me *A. B.* one of the Commiſſioners.

If the Defendant be not preſent, then the Bail are uſually bound in double the Sum in the Writ, otherwiſe only Single.

The

2

(a) But ſee *Hil.* 8 *Geo.* II. *(b) Hil.* 8 *Geo.* I. *(c) Hil.* 11 *Geo.* II. *reg.* 1. *(d)* 4 *W. & M. cap.* 4.

The Condition of which ſaid Recognizance ſhall be to this Effect, *viz.*

You (naming the Defendant if preſent) *do acknowledge to owe unto the Plaintiff* xx *l. And you* (naming the Bail) *do ſeverally acknowledge to owe unto the ſame Perſon the ſum of* x *l. apiece, to be levied upon your ſeveral Goods and Chattels, Lands and Tenements, upon Condition, that if the Defendant be Condemned in the ſaid Action, he ſhall pay the Condemnation, or render himſelf a Priſoner to the* Fleet *for the ſame; and if he fail ſo to do, You* (naming the Bail) *do undertake to do it for him. (a)*

Secondly, It is Ordered, That the Affidavit of the due taking of every ſuch Bail ſhall be made either before ſome Judge of the Common Pleas, to whom the Bail ſhall be tranſmitted; or before ſome Perſon who ſhall have power to take Affidavits in Matters and Cauſes depending in the ſaid Court.

Thirdly, It is Ordered, That all Bails taken by any Commiſſioner within the diſtance of forty Miles from the Cities of *London* and *Weſtminſter*, ſhall be (*b*) tranſmitted to the Lord Chief Juſtice of the Court of Common Pleas, or to one of the Juſtices of the ſaid Court, within ten days after the taking thereof; and all Bails taken by any Commiſſioner above the diſtance of forty miles from the ſaid Cities of *London* and *Weſtminſter* ſhall be tranſmitted within twenty days after the taking thereof, unleſs all the ſaid Juſtices ſhall be in their Circuits, and then as ſoon as any one of them ſhall be returned to *London* out of his Circuit.

Fourthly, Alſo every Commiſſioner is to have a Book kept purpoſely for entring exactly the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the time of the taking thereof, and the Name of him by whom ſuch Bail ſhall be tranſmitted.

Fifthly, It is further Ordered, That the Plaintiffs Attorney ſhall be at liberty to repair to the Commiſſioners Book for the Names of the Bail, to the end that they may enquire of the ſufficiency of them, and if they are found inſufficient, they may except againſt them within twenty days after the ſaid Bail is tranſmitted, and notice to the Plaintiff or his Attorney of the taking thereof: And in that Caſe the Defendant muſt either put in better Bail, or the Cognizors of ſuch Bail, muſt (*c*) juſtify themſelves in open Court, either by Affidavit taken before ſuch Commiſſioner that took the ſaid Bail, or by Oath made in Court, or before one of the Judges of the ſaid Court.

Geo. Treby, *John Powell*,
Ed. Nevill, *Tho. Rokeby*.

Eaſter, 5 W. & M. 1693.

Iſſues. Incipiturs.

I. *WHereas upon Complaint made by the Prothonotaries, and the Clerk of the Treaſury of this Court, on behalf of themſelves and the under Clerks of the Treaſury, that many Attorneys and Clerks of this Court neglect to enter their Iſſues of the Term wherein they are joined, but many times enter them of ſubſequent Terms, without any Warrant or Authority for the doing thereof, to the apparent Damage and Loſs of the ſaid Clerks in defrauding them of their juſt and due Fees. (d)*

Now for the prevention thereof and of many other Inconveniencies and Miſchiefs frequently committed, and happening by ſuch and the like neglects, It is Ordered by the Lord Chief Juſtice and other his Brethren Juſtices of this Court, that from henceforth all Iſſues be entred of the Term they are joined, and not of any other ſubſequent Term whatſoever, and that the Prothonotaries of this Court ſhall not give any Licence or Authority for the entry of any ſuch Iſſues, nor ſhall the Clerk of the Eſſoins deliver out any Poſt Rolls for the doing thereof, nor ſhall the Clerk of the Treaſury permit any ſuch Iſſues to be entred in the Treaſury upon any account whatſoever. (*e*)

And it is further Ordered, that the reſpective Prothonotaries of this Court for the future, ſhall not ſign any Records of *Niſi prius* until the ſame or an *Incipitur* thereof be fairly entred upon Record, and the Fees firſt paid for the entry thereof.

Geo. Treby, *John Powell*,
Ed. Nevill, *Tho. Rokeby*.

Eaſter, 5 W. & M. 1693.

Bringing in Rolls.

II. *WHereas by an ancient Rule of this Court made in the ſixth year of the Reign of King* James *the firſt, The Rolls of* Trinity, Michaelmas *and* Hillary *Terms are to be brought in to the Clerk of the Eſſoins, by the ſeveral Officers of this Court before the Eſſoin-day of the Terms following, and the Rolls of* Eaſter *Term, on or before the firſt day of* Trinity *Term following, and that Officer which doth not bring in his Rolls at the times aforeſaid is to pay to the Clerk of the Eſſoins for every Roll wanting* xii d. (*f*)

(*a*) *Trin.* 24 *Eliz.* (*b*) *Hil.* 6 *Geo.* I. *reg.* 2. *Mic.* 13 *Geo.* I. *Mich.* 6 *Geo.* II. *reg.* 1. (*c*) *Mic.* 6 *Geo.* II. *reg.* 6. *Trin.* 3 & 4 *Geo.* II. (*d*) *Mich.* 1654. *ſect.* 21. *Trin.* 21 *Car.* II. *reg.* 2. (*e*) *Hil.* 11 *Geo.* I. (*f*) —— 6 *Ja.* I. *Eaſt.* 12 *Ja.* I. *Eaſt.* 34 *Car.* II. *reg.* 3. *Mich.* 1654. *ſect.* 7.

And whereas by a late Act of Parliament entitled, *An (a) Act for the better discovery of Judgments in the Courts at* Westminster, 'The Clerk of the Essoins is to make an Alphabetical Dogget of all the Judgments entred in this Court of *Michaelmas* and *Hilary* Terms before the last day of the several Terms following; and of the Judgments of *Easter* and *Trinity* Terms before the last day of *Michaelmas* Term following under the penalty of one hundred pounds.

And whereas by reason of the late bringing in of the Rolls of late years contrary to the said Rule of Court, the Clerk of the Essoins hath not time sufficient to dogget the Judgments by the time limited in the said Act of Parliament.

It is therefore hereby Ordered by this Court that the several and respective Officers of this Court shall deliver in all their Rolls of *Trinity*, *Michaelmas* and *Hillary* Terms to the Clerk of the Essoins before the Essoin day of the several Terms following, and their Rolls of *Easter* Term on or before the first day of *Trinity* Term following; and that that Officer which shall not bring or send in all his Rolls of the said several Terms at the times aforesaid shall pay to the Clerk of the Essoins for every Roll brought in after, xii *d.* according to the ancient Rule of this Court. (*b*)

And whereas the Plea Rolls of this Court have not of late years been brought to the Clerk of the Essoins to be bound up at the time they ought to be; **It is hereby likewise Ordered**, that the Plea Rolls of every Term hereafter shall be brought in to the Clerk of the Essoins within three Weeks after the end of the Term following; and in default thereof there shall be likewise paid to the Clerk of the Essoins for every Plea Roll brought in after, 12 *d.*

Geo. Treby, } { *John Powell*,
Ed. Nevill, } { *Tho. Rokeby.*

The same (*c*) Term, 1693.

III. *Rules to be observed in the Court of* Common Pleas, *in the Proceedings upon Declarations delivered to* Prisoners *in Custody in County Goals. (d)*

1st THAT no Copy of any Declaration shall be delivered to a Prisoner in Custody until after the Process, upon which such Prisoner shall be taken or charged in Custody be returnable.

2dly, That no Rule shall be given for the Defendant in Custody, to appear and plead to any Declaration against him, until an Affidavit be filed with the proper Secondary of the Delivery of the Copy of such Declaration, and of the time when, and the Person to whom the same Copy was delivered; and a Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no Appearance is entred with him.

3dly, If a Copy of the Declaration be delivered, before *Mensem Paschæ* or *Crastinum Animarum*, and Affidavit thereof made and filed, and the Defendant doth not enter his appearance with the proper Officer within ten days after *Easter* or *Michaelmas* Term respectively, Judgment may be entred against him upon the Certificate as aforesaid, if Rules have been given; but if he doth (*e*) (*not*) enter his appearance as aforesaid, before the end of ten days after the Term, he shall Imparl until the next Term, unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within forty miles of the City of *London* and *Westminster*; then though he doth appear before the expiration of ten days after the end of the Term, he shall plead two days before the Essoin day of the next Term, and in default thereof Rules having been given, Judgment may be entred against him as aforesaid.

4thly, If a Copy of the Declaration be delivered on, or after *Mensem Paschæ* in *Easter* Term, or *Crastinum Animarum* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and the Plaintiff thereupon shall give Rules to appear and plead, if the Defendant enter his appearance two days preceding the Essoin day of the next Term, he shall Imparl until the said next Term: But if he doth not appear within that time, Judgment may be entred against him as aforesaid.

5thly, If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Essoin day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his appearance, and plead by that time that the Rules are out, Judgment may be entred against him as aforesaid.

6thly, If the Declaration be not entred or left in the Office before the end of the next Term, after the Writ or Process (by which the Prisoner shall be taken or charged in Custody) be returnable, and an Affidavit made and filed in manner aforesaid, before the end of

(*a*) 4 & 5 *W. & M. cap.* 20. *And* 7 & 8 *W.* III. *cap.* 36. (*b*) *Mich.* 2 *Geo.* I. (*c*) *In the King's Bench a like Rule was made, Easter*, 5 *W. & M.* 1693. (*d*) *Stat.* 4 & 5 *W. & M. cap.* 21. See *reg. Easter*, 8 *Geo.* I. (*e*) (*Not*) *is in the Original Rule, but it's certainly a Mistake of the Clerk.*

or twenty days after such Term (*Easter* Term excepted, and within ten days after *Easter* Term) the Prisoner shall be discharged upon the entring of his appearance with the proper Officer, by Writ of *Supersedeas* made by him, according to the ancient practice of this Court. (*a*)

7thly, If any Goaler or Keeper of Prison having received a Copy of a Declaration against a Prisoner in his Custody, shall suppress the same, or not deliver it forthwith to such Prisoner, an Attachment shall be issued against him.

Geo. Treby; } { *Joh. Powell,*
Ed. Nevill, } { *Tho. Rokeby.*

Easter, 6 W. & M. 1694.

Termino Paschæ. Anno sexto Gulielmi & Mariæ *Regis & Reginæ Angliæ*, &c.

Fines.

Forasmuch as Complaint hath been made unto this Court by the Secondaries of the Compters in London *and the Under-Sheriff of* Middlesex *that many Fines have been and daily are passed through the several Offices of this Court wherein Attorneys are imployed, or their Names used as Attorneys for the Comusees of the same, who neither do know nor are acquainted with the Parties in the said Fines mentioned, nor cannot or will not give any Accompt where the Lands and Tenements therein contained do lie, or of the Names of the Tenants in possession thereof; and others are passed by Attorneys of the Court of Kings Bench and Sollicitors in the Names of some, who, although they be Attorneys of this Court live many miles distant from* London, *and therefore cannot be enquired of touching the Post Fines thereupon growing due unto their Majesties to be Collected and Received by the said Secondaries and Under-Sheriff, by means whereof in regard that many Purchases are made in other Persons Names in trust for the real Owners of the Estates which pass by the said Fines, and sometimes of Rents issuing out of Houses, it is very difficult, if not impossible for the said Secondaries and Under-Sheriff to find out the Messuages, Lands and Tenements whereupon the said Post Fines are to be levied, or out of what Lands and Tenements such Rents do Issue, or the Persons who of right ought to pay the same, so that many of them are wholly lost.*

For Remedy thereof for the future, **It is Ordered** by this Court, that from henceforth no Writ or Writs of Covenant upon any Fine or Fines whatsoever of any Messuages, Lands or Tenements, or of Rents issuing out of them, lying or being, or which shall therein be mentioned to lie or be within the City of *London* and the Liberties thereof, or within the said County of *Middlesex*, or either of them, whether the same shall be of Messuages, Lands or Tenements in the said City and County, or either of them singly, or joined, with any other Messuages, Lands or Tenements in any other City or County, shall be returned by the Clerk for the Return of the said Writs of Covenant of this Court for the time being, until the Attorneys, who shall prosecute such Fines shall give a Note or Notes in Writing to the said Clerk for the return of the said Writs of Covenant for this Court or his Deputy as well of the Persons Name and Place of Habitation who is really and properly Attorney to the said Fine or Fines as of their own Names and Places of Habitation, as also of the particular Street, Lane or Place where such Messuages, Lands or Tenements, or Rents issuing out of the same are scituate; and of the Person or Persons Name or Names, who is, or are in Possession of such Messuages, Lands or Tenements, or who is, or are to pay the Post Fine or Post Fines thereupon due unto their Majesties.

And it is further Ordered, that the present Clerk for the Retorn of the said Writs of Covenant of this Court, or his Deputy, or the Clerk for the Retorn of the said Writs of Covenant of this Court for the Time being, his Deputy or Clerk, and all Attorneys of this Court, and others concerned therein shall and do take notice from time to time of the due Execution of this Order, and that the said present Clerk for the Retorn of the said Writs of Covenant of this Court or his Deputy, or the Clerk for the Retorn of the said Writs of Covenant of this Court for the time being, his Deputy or Clerk shall carefully keep such Notes or Writings on a file, and do upon Application unto him or them made by the said Secondaries and Under Sheriff of *Middlesex*, or any of them, give unto them or any of them requesting the same from time to time, or suffer them to take an Accompt in Writing thereof, according to the Accompts by him or them taken in pursuance of this Order.

And that this Order may be made the more Publick, **It is farther Ordered**, that the same be made a standing Rule of this Court, and that Copies hereof be affixed and set up in the several Offices belonging to this Court that all Persons therein concerned may be informed and take notice thereof.

'Per Cur'.

Trin.

(*a*) *East.* 8 *Geo.* I.

Trin. 9 W. III.

A Rule to prevent Persons suing out Writs *of* Privilege, &c. *who are not Attornies.* (*a*)

WHereas notwithstanding the several Orders of this Court, made for prevention of Persons suing out Writs of Privilege, Proprium Capias *and Attachments at their own Suits, as Attornies of this Court who never were sworn or had their Names entred on the Roll of Attornies, remaining with the Clerk of the Warrants of this Court, and yet have prosecuted such Writs, so as to free themselves from Arrests, or to force Bail where none ought to be given, which Rules and Orders have hitherto proved Ineffectual. Therefore for the better preventing the said Abuses;*

It is Ordered That no Attorney shall for the future sue forth, or cause to be sued forth in his own Name, or at his own Suit, any Writ of Privilege, Attachment, *Prop' Capias* or other such Process; and that the Green-Wax or Keeper of the Seal of this Court, or his Deputy, do not hereafter Seal any Writ of Privilege, Attachment, *Prop' Capias*, or other such Process, unless the same be first stampt or signed by the Clerk of the Warrants of this Court, or his Deputy, for which no Fee is to be paid, to the Intent to shew that such Person is an Attorney of this Court, duly entered and continued on the said Roll of Attornies; and that every such Writ or Process being not stamped or signed as aforesaid by the said Clerk of the Warrants or his Deputy, shall be of no force to free such Person from Arrest, or to require Bail or to give any Privilege whatsoever, as an Attorney of this Court.

Per Cur'.

Easter, 13 W. III.

Cur' Pl'itor' Epi' Elien' infra Insulam Elien'.

The Court of Pleas of the Bishop of Ely *in the Isle of* Ely.

ſſ. *ORdinat' est quod omne breve de Certiorari e Cur' hic emanan' & Curiæ placit' Epiſc' Elien' de futuro dirigend' antequam ſigil' fuerit per un' Juſticiar', hujus Cur' cum verbis* Inſula Elien' *in dorſ' ejuſdem Brevis ſignabitur ſubter nomen Juſtic' prædict', & ſi aliquod breve de Certiorari emanabit abſque tali indorſamento manu propria ejuſdem Juſtic' ſuperſcripto non allocabitur per Judicem Cur' Elien' predict'.* Cooke.

ſſ. IT is Ordered that every Writ of *Certiorari* issuing out of this Court and for the future directed to the Court of Pleas of the Bishop of *Ely*, before it be sealed by one of the Justices of this Court, shall be marked with the Words *Isle of Ely* on the back of that Writ, under the Name of the Justice aforesaid; and if any Writ of *Certiorari* shall issue without such Indorsement superscribed by the proper Hand writing of the same Justice, it shall not be allowed by the Judge of the Court of *Ely* aforesaid.

Per Cur'.

Ed. Nevil, John Powel, Jo. Blencowe.

RULES and ORDERS OF THE Court of Common Pleas.

Mich. 4 Anne, 1705.

Attornies.

WHereas divers Complaints have been made to us, that many Attornies and Clerks of this Court are not admitted of any of the Inns of Court or Chancery, according to (*b*) *ancient Course and Usage by which they might be resorted to, and Business of Law better managed to the greater Ease of the Queen's Subjects, the Neglect whereof is to the great Detriment and Decay of the Societies of the Law and divers Inconveniencies do thereupon daily happen; for Prevention whereof, and to establish a Remedy for the future,*

It is Ordered by this Court that all Attornies and Clerks of this Court not already admitted into one of the Inns of Court or Chancery shall procure themselves to be admitted into one of the said Inns of Court (if those Honourable Societies shall please to admit them) or into one of the Inns of Chancery before the End of *Trinity* Term now next ensuing, and take Chambers there (if conveniently they may be had else that they take Lodgings in some convenient Place near the said Inns, and leave Notice in Writing with the Butler or Porter of such Inn whereof they are

(*a*) *Trin.* 29 *Car.* II. *reg.* 3. (*b*) *Former Rules, Mich.* 1654. *Trin.* 29 *Car.* II. *Mich.* 36 *Car.* II.

are admitted, where their Lodgings or Habitations are, except ſuch Perſons who are or ſhall be hereafter Inhabitants or Houſe-keepers in *London*, *Weſtminſter*, *Southwark*, or the Suburbs thereof, and Liberty of the *Tower* of *London* and St. *Katherine*'s there, and ſuch who are ſworn Attornies of any Courts within the ſaid Cities, Town and Liberties.

And it is further hereby Ordered, That for the future no Perſon whatſoever ſhall be ſworn an Attorney, or admitted or entred a Clerk of this Court, (except the Perſons before excepted) unleſs firſt admitted of one of the Inns aforeſaid, and bring and produce at the Time of his being ſworn an Attorney, or admitted, or entred a Clerk as aforeſaid, a Certificate under the Hand of the Treaſurer or Principal of the Inn whereof he is admitted, which they are reſpectively to give without being paid any Thing for the ſame, teſtifying ſuch his Admiſſion; which Certificate every Attorney ſo ſworn ſhall deliver to the Clerk of the Warrants of the ſaid Court, and every Clerk of this Court ſo admitted or entred ſhall deliver to the reſpective Prothonotary, of whoſe Office he ſhall be admitted, to be by the ſaid reſpective Officers filed, before the Name of ſuch Attorney ſhall be entred into the Roll of Attornies, or ſuch Clerk admitted, or entred as aforeſaid; unto which file of Certificates the reſpective Treaſurers and Principals of the ſaid Inns of Court and Chancery ſhall or may from Time to Time reſort, as they ſhall ſee cauſe, without paying any thing for the ſame.

And it is further Ordered, that no Attorney already ſworn, or Clerk already admitted, or entred, or which hereafter ſhall be ſworn, admitted or entred, and which are or ſhall be admitted into any of the Societies aforeſaid, ſhall put himſelf out of the Society whereof he is or ſhall be admitted, until he be admitted of ſome other of the ſaid Societies, and deliver to the Treaſurer or Principal of ſuch Society whereof he was firſt a Member, a Certificate in Writing ſigned by ſuch Treaſurer or Principal, teſtifying his being admitted of ſuch other Society, except ſuch Perſon ſhall totally leave off the Practice of the Law, as an Attorney or Clerk in this Court.

And whereas by the Uſage, Cuſtom or Orders of the Inns of Chancery, the Members thereof were obliged to, and did come into Commons and continue therein, according to the Orders of ſuch Society, to their great Eaſe in tranſacting their Cauſes one with another, and much Benefit to their Clients; but of late, moſt or a great Number of the ſaid Attornies and Clerks have neglected to come into Commons or continue therein according to the reſpective Orders of the ſaid Inns of Chancery, to the great Decay and Detriment of thoſe Societies.

It is further Ordered, That from the End of this preſent Term, the Attornies and Clerks which now are, or ſhall be admitted into any of the Inns of Chancery, do and ſhall come into and continue in Commons for the Time or Times, as by the Orders of ſuch Society whereof they are or ſhall be admitted, is, are or ſhall be ordered, limited or appointed for them ſo to do; and in caſe any Attorney or Clerk aforeſaid ſhall offend againſt this Rule or any Part thereof, ſuch Attorney ſhall be put out of the Roll of Attornies, and ſuch Clerk ſo offending ſhall be diſcharged and diſplaced from ſuch Office to which he belongs, until he or they give Obedience to this Order. And the reſpective Prothonotaries and Clerk of the Warrants of this Court and all other Officers whom it may concern, are hereby required to give Obedience to this Order, and ſee that the ſame, as to themſelves be duly obſerved.

And for the more effectual and better putting in Execution this Order, and that it may procure the good hereby deſigned and intended;

It is hereby further Ordered, That the reſpective Treaſurers and Principals of the Inns of Chancery, and the Ancients, Rulers and Governors of the ſame do and ſhall, from Time to Time, by ſuch Ways and Means as they ſhall ſee fit and convenient, procure and get a Liſt of the Names of ſuch Attornies and Clerks of this Court who are not admitted of any of the ſaid Inns of Court or Chancery, which Liſt the ſaid Treaſurers and Principals, Ancients, Rulers and Governors ſhall yearly in *Michaelmas* Term deliver unto the Right Honourable the Lord Chief Juſtice of this Court for the Time being, to the Intent the Offenders againſt this Order may be compelled to give Obedience to the ſame.

And it is alſo hereby further Ordered, That the ſaid Treaſurers, Principals, Ancients, Rulers and Governors, in like manner procure and get a Liſt of the Names of ſuch Perſons as take upon them to practice as Attornies or Clerks in this Court who are neither ſworn Attornies, or admitted or entred Clerks in any of the Offices of this Court, which Liſt is to be delivered as above, to the Intent that ſuch Offenders may be proceeded againſt in ſuch Manner as ſhall be thought fit.

Tho. Trevor,
Jo. Blencowe,
R. Tracey.

Easter, 9 Anne, 1710.

Fines.

Whereas by an Act made in the three and twentieth Year of the Reign of Queen Elizabeth, *(a) it was amongst other Things enacted,* 'That every Person, who should at 'any Time thereafter take the Knowledge 'of any Fine, and should certify the same, that 'such Person should with the Certificate there-'of certify also the Day and Year when the 'same was knowledged; and that no Person 'who should take any such Knowledge of 'any Fine should be bounden, or by any 'Means enforced to certify any such Know-'ledge, except it were within one Year next 'after the said Knowledge taken. And that 'no Clerk or Officer should receive any Writ 'of Covenant, whereupon any Fine was there-'after to pass, unless the Day of the Know-'ledge of such Fine should appear in or by 'such Certificate, upon Pain of forfeiting five 'Pounds.' *And whereas, contrary to the Intent and Meaning of the said Statute, the Days and Years of the Captions of several Fines have been raised and altered after the same have been acknowledged, and other Days and Years inserted, and which sometimes have appeared to be after the Death of the Conusors in such Fines, by Reason whereof several Disputes have arisen, great Delays have been had in the passing such Fines, and that several Fines have been vacated thereupon.' Now for the preventing the like Mischiefs and Inconveniencies for the Time to come,*

It is Ordered by the Justices of this Court that for the future, no Fine whatsoever taken and acknowledged before any Commissioners, by Virtue or Colour of any special *Dedimus potestatem* to them directed, do pass the Queen's Silver Office, and the Queen's Silver of such Fine be recorded, unless Oath be made before the Lord Chief Justice, or some other Justice of this Court, of the due Execution of the said Fine, and also of the Day and Year when each Conusor so executed the same, where a Rasure in the Day or Year shall appear in the Caption thereof; and that no Fine so acknowledged before such Commissioners in Case of such Rasure, be received and entred by the Clerk of the Queen's Silver of this Court, before there be an *Allocatur* reciting the Day and Year of each particular Conusor's Acknowledgment, under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for the passing of the said Fine first had and obtained.

And it is further Ordered, that no Fine whatsoever taken and acknowledged before the said Lord Chief Justice, or any Judge of Assize, or Serjeant at Law, if the Date of the Caption of such Fine shall appear to have been raised, do for the future pass the Queen's Silver Office, and the Queen's Silver of such Fine be recorded by the said Clerk of the Queen's Silver, before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for his passing and entring such Fine first had and obtained. (*b*)

And it is likewise Ordered, that after any Fine whatsoever shall have passed the said Queen's Silver Office, and the Queen's Silver of such Fine be recorded, that neither the Precipe or Caption of any such Fine or Writ of *Dedimus potestatem*, or Writ of Covenant, by which any such Fine be passed, shall be raised or altered before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for the doing thereof, and for the amending of all Entries made from such Writ or Writs, first had and obtained. (*c*)

Tho. Trevor, *Jo. Blencowe,* } *R. Tracey,* *R. Dormer.*

Hil. 9 Anne, 1710.

Trials at Bar.

I. *Whereas Rules for Trials at the Bar of this Court are usually granted one or more Terms before such Trials are appointed to be had; and that the Writs of* Habeas Corpora *for Summoning the Juries for such Trials, are made out upon* Venires *returnable in the preceding Term; so that the Attornies for Plaintiffs in such Trials have always Opportunities of giving timely Notice to this Court of the certain Days when such Trials are to come on. And forasmuch as their neglecting to give such Notice is found to be to the Prejudice of other Suitors in this Court. Now for the preventing of any Prejudice or Inconvenience that may happen from such Negligence,*

It is Ordered by this Court, That the Attorney for the Plaintiff in every Cause, which in such Case shall come to be tried at the Bar of this Court, shall before the Essoin Day of the Term, in which such Cause shall be appointed to be tried, give Notice to the chief Prothonotary of this Court, or his Secondary, of the Day on which such Cause is to be tried, that the same (as is usual) may be put down in the Court Book provided for that Purpose. And in Case such Attornies shall neglect so to do, that then, without Motion and the special Direction of this Court, such Causes shall not be tried that Term;

(*a*) *Cap.* 3. (*b*) Rules relating to Fines, *Easter*, 43 *El.* *Hil.* 14 *Ja.* I. *Hil.* 28 & 29 *Car.* II. *Easter*, 29 *Car.* II. *East.* 6 *W.* III. (*c*) *Hil.* 13 *Geo.* I.

Term; any Precedent Rule or Practice to the contrary notwithſtanding.

Tho. Trevor, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

Hil. 9 Anne, 1710.

Declarations.

II. *Whereas upon Special Writs returnable the firſt Return of any Term the Practice heretofore of this Court hath been, that Declarations delivered thereupon, or left in the Office at any Time before the End of the Term in which the ſaid Writs were returnable were a good Delivery, to oblige Defendants to plead thereto in four Days after Rules given for that Purpoſe, by Means whereof ſuch Defendants have been deprived of the Benefit of moving to pay Money into Court, or to change the Venue, and divers other Inconveniences having ariſen from ſuch Practice: Now to prevent the ſame for the future,*

It is Ordered by this Court, That all Declarations hereafter to be delivered, or left in the Office upon Special Writs in the ſame Term the ſaid Writs ſhall be returnable, ſhall be delivered, or left in the Office at leaſt four Days before the End of every Term, excluſive of the Day of the Delivery thereof or of leaving the ſame in the Office; any Practice heretofore to the contrary thereof notwithſtanding. *(a)*

Tho. Trevor, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

The ſame Term, 1710.

Non-proſſes.

III. *Whereas divers Diſputes and Controverſies have ariſen in this Court (b) touching* Non-proceſſes, *ſigned for want of Declarations, in what Time after the Return of the Writ the ſame may be ſigned, or what Time the Plaintiff has, after the Return thereof, to deliver his Declaration, or of leaving the ſame in the Office, before he ſhall be* non-proſt *for Want thereof: Now for the avoiding of all ſuch Diſputes, and for reducing the Practice herein to a Certainty,*

It is Ordered by this Court, That upon all Proceſs returnable the firſt or any other Return in any Term, the Plaintiff ſhall have Liberty to the end of the next enſuing Term, to deliver his Declaration to the Defendant's Attorney, or of leaving the ſame in the Office, and the Defendant's Attorney having entred his Appearance with the proper Officer, as of that Term in which the Proceſs is returnable, and at the End of the enſuing Term, or in four Days after the End thereof, having given a Rule to declare in the proper Office, and having called on the Plaintiff's Attorney or Clerk in Court (if he can be found) the Defendant, any Time in the Vacation of ſuch enſuing Term, after the Rule for declaring is out, may Sign his *Non-proſs* for want of a Declaration, and not afterwards, and the Plaintiff ſhall not, without the Leave of the Court, have any longer Time to declare in, than as aboveſaid, other than the Time to be limited by the Defendant's Rule; any Rule or Practice to the contrary hereof notwithſtanding.

Tho. Trevor, } { *Rob. Dormer,*
Jo. Blencowe, } { *R. Tracey.*

The ſame Term, 1710.

Bail-Bonds.

IV. *Whereas ſeveral Motions have been made in this Court againſt the undue Proſecutions had upon Bail Bonds, in having the ſame put in Suit before the Defendants could have a reaſonable Time of putting in Bail in the Original Actions; and the Time for putting the ſaid Bonds in Suit not appearing to be fix'd and limited, whereby the Practice of the Court in that Caſe is become doubtful and uncertain: Now for the Information of all Practicers touching the ſame,*

This Court doth think fit, and ſo Order, That no Bail Bond taken in *London* or *Middleſex*, and by Virtue of any Proceſs iſſuing out of this Court, ſhall be put in Suit till after four Days excluſive of the Appearance-Day of every Return, upon which the ſaid Proceſs ſhall be returnable, and that no Bail Bond taken in any other City or County, by Virtue of ſuch Proceſs, ſhall be put in Suit till after eight Days excluſive of the Appearance Day of any ſuch Return, upon Pain of having all Proceedings made upon ſuch Bail Bonds to the contrary thereof (upon Motion made to this Court for that Purpoſe) ſet aſide with Coſts. *(c)*

Tho. Trevor, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

RULES

(a) *Mich.* 1 *Geo.* II. 6 *Geo.* I. *reg.* 2. See *Trin.* 3. & 4 *Geo.* II. (b) *Mich.* 1654. *ſect.* 14. 15. *Mich.* 6 *Geo.* II. (c) *Trin.* 1 *W.* & *M. reg.* 2. *Hil.*

RULES and ORDERS OF THE Court of Common Pleas.

Mich. 2 Geo. I. 1715.

Rolls.

WHereas by the antient (a) Rules of this Court the Common Rolls of Trinity, Michaelmas, *and* Hillary *Terms are by the ſeveral Officers to be delivered to the Clerk of the Eſſoins before the Eſſoin-Day of the ſeveral Terms following, and their Rolls of* Eaſter *Term on or before the firſt Day of* Trinity *Term following, under the Penalty of* 12 d. *a Roll, to be paid to the Clerk of the Eſſoins by ſuch Officers who ſhall neglect to bring in their Roll; and the Plea-Rolls are to be brought in to the Clerk of the Eſſoins within three Weeks after the End of the Term following, under the like Penalty. And the Prothonotaries, when they bring in their Rolls as aforeſaid, are to deliver to the Clerk of the Eſſoins an Account of the* Carets *in Writing, with the Attornies Names who took the ſaid Rolls out of their ſeveral Offices. And whereas there have of late been great Neglects in the ſaid Premiſſes,*

It is hereby thereforе Ordered, That the Clerk of the Eſſoins do, a Fortnight within every Term, lay before this Court an Account of what Rolls are wanting that ought to have been brought in according to the ſaid Rules together with the Attornies Names who took them out of the ſaid Offices, that this Court may proceed as they ſhall think fit, againſt ſuch Perſons as ſhall not have brought in their Rolls according to the ſaid Rules.

P. King, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

Trin. 2 Geo. I. 1716.

Notice of Trial.

WHereas in divers Actions and Suits commenced in this Court, the Plaintiff many Times in Pleading concludes ad Patriam, *and the Defendant not being obliged to join Iſſue, nor Demur till a four Days Rule is expired, Plaintiffs are thereby greatly delayed in trying their Cauſes; for the Prevention of which for the future, (b)*

It is Ordered, That in all Caſes where the Plaintiff concludes *ad Patriam*, the Defendant's Attorney, or Clerk in Court, ſhall be bound to accept of Notice of Trial upon the Back of ſuch Pleading, whether the ſame be delivered to the Defendant's Attorney or Agent, or left in the proper Office, where the ſame may be left by the Courſe of the Court: And ſuch Notice of Trial ſo given, or left as aforeſaid, ſhall be as good and effectual as if Iſſue had been actually joined.

P. King, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

Mich. 3 Geo. I. 1716. (c)

Countermand of Trial.

IT is Ordered this Term by the Court, That no *(d)* Countermand of Trial at the Aſſiſes ſhall be good, unleſs Notice be given two Days before the Commiſſion Day.

N. B. *No Countermand to be given on a Sunday.*

Hil. 6 Geo. I. 1719.

Notice of Inquiry.

I. *WHereas by a Rule of this Court made in* Trinity *Term in the (d) ſecond Year of the Reign of his Majeſty King* George, *it was Ordered,* 'That in all Caſes where the 'Plaintiff concludes *ad Patriam*, the Defendant's Attorney or Clerk in Court ſhall be 'bound to accept of Notice of Trial upon the 'Back of the Pleading, whether the ſame be 'delivered to the Defendant's Attorney or A'gent, or left in the proper Office, where the 'ſame may be left by the Courſe of the Court. 'And ſuch Notice of Trial ſo given or left 'as aforeſaid, ſhall be as good and effectual as 'if Iſſue had been actually joined.'

And whereas it appears, That notwithſtanding the ſaid Rule, the Plaintiffs in divers Actions and Suits commenced in this Court are delayed, for that the Defendants Attornies are not obliged to take the like Notice of executing Writs of Enquiry;

(a) *Eaſter* 5 *W. & M. reg.* 2. *Eaſt.* 34 *Car.* II. *reg.* 3. *Mich.* 1649. *Mich.* 1654. *ſect.* 7.
(b) *Mich.* 1654. *ſect.* 21. See *Hil.* 6 *Geo.* I. *& Trin.* 10 *Geo.* I. (c) *Fixed up in the Offices.*
(d) *Mich.* 1654. *ſect.* 21. (e) And ſee *Trin.* 10 *Geo.* I.

It is therefore hereby Ordered, That in every Cauſe where the Plaintiff concludes *ad Patriam*, and giveth Notice of Trial upon the Back of his Pleading, purſuant to the ſaid Rule, if the Defendant doth not join Iſſue on ſuch Pleading before the Rule be out, that in every ſuch Caſe after Judgment obtained, the Defendant's Attorney ſhall be obliged to accept Notice of executing a Writ of Enquiry, from the Time that Notice of Trial was given on the Back of ſuch Pleading as aboveſaid.

P. King, } { *R. Tracey,*
Jo. Blencowe, } { *Robert Dormer.*

The ſame Term, 1719.

Entering Appearances and Bail.

II. *WHereas there have been great Neglects in entring Appearances for Defendants and in entring Special Bail upon Record*;

It is hereby Ordered, For preventing the ſame, That all Rules and Orders of this Court heretofore made, relating to the Premiſſes, ſhall from henceforth be punctually obſerved, and the Pains and Penalties therein contained ſhall be inflicted on Offenders.

And for the farther enforcing the ſaid good Rules and Orders already made,

It is hereby further Ordered, That from and after the laſt Day of this preſent *Hillary* Term, every Attorney of this Court accepting or ſubſcribing any Warrants to appear for any Defendant, to any Writ iſſuing out of this Court, ſhall within four Days after the Appearance Day, to the Return of every ſuch Writ in *London* or *Middleſex*, and within eight Days after the Appearance Day in every Writ in any other County, enter the Appearance of ſuch Defendant with the proper Officer. And if any Attorney accepting any Warrant to appear, or ſubſcribing any Proceſs or Warrant to appear, do not enter ſuch Appearance within the Time aforeſaid, he ſhall for ſuch Offence be liable to an Attachment, and ſhall not be diſcharged therefrom till he hath paid full Coſts to the Plaintiff, for the Proſecution on ſuch Attachment; and the Defendant, when he appears, ſhall be compelled to plead, as of the Time when he ſhould have pleaded, if his Appearance had been duly entred.

And it is likewiſe further Ordered, That all Bails taken by Commiſſioners, purſuant to the (*a*) Act of Parliament for taking Special Bails in the Country, ſhall be tranſmitted to the Lord Chief Juſtice, or to one of the Juſtices of this Court, *viz.* every Bail taken within forty Miles of *London*, within ten Days after the Caption thereof; and every Bail taken above forty Miles from *London*, within twenty Days after the Caption thereof; unleſs all the ſaid Juſtices ſhall be in their Circuits; and then as ſoon as any one of them ſhall be returned to *London* out of his Circuit, being the Time preſcribed by the (*b*) Orders of this Court, to be obſerved by the Commiſſioners; and after ſuch Tranſmiſſion, ſhall be forthwith delivered to, and filed with the proper Officer, to be entred upon a Record, or otherwiſe it ſhall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no ſuch Bail were ever put in; and the Defendant, in Caſe he be admiſſible to plead to the Original Action, ſhall not be admitted ſo to do, unleſs he firſt pay the full Coſts to the Plaintiff for the (*c*) Proſecution on the Bail Bond, and plead as of the Time when the Bail ſhould have been duly entred.

P. King, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

Hil. 8 Geo. I. 1721.

Sheriffs, returning Proceſs.

I. *WHereas great Delays have been occaſioned to the Suitors of this Court, by reaſon that Sheriffs, Under-Sheriffs, and their Deputies, Bailiffs, Coroners, Bailiffs of Liberties, and other Officers and Perſons having Return of Proceſs iſſuing out of this Court, do not in due Time make a Return of ſuch Proceſs, (d) or of the Warrant or Precept thereupon, by which Means great Expences are occaſioned, and Plaintiffs delayed in the Recovery of their juſt Debts; for the Prevention therefore of the like Delays for the future*,

It is Ordered by this Court, That from and after the laſt Day of this preſent *Hillary* Term, if any Sheriff, Under-Sheriff, or any of the Officers or Perſons above-named, or any Officer or Perſon, having the Return of any Proceſs iſſuing out of this Court, or of any Precept or Warrant thereupon, ſhall neglect or refuſe to return the ſame within ſix Days next after Service of a Rule of this Court for that Purpoſe, ſuch Sheriffs, Under-Sheriffs, and every other of the above-named Officers or Perſons, ſhall be liable to pay the Coſts occaſioned by ſuch Neglect, to be taxed; any Rule or Order of this Court to the contrary notwithſtanding.

P. King, } { *R. Tracey,*
Jo. Blencowe, } { *Rob. Dormer.*

(*a*) *Stat.* 4 *W. & M. cap.* 4. (*b*) 10 *Mar.* 1692. 5 *W. & M.* and ſee *Mich.* 13 *Geo.* I. and *Mich.* 6 *Geo.* II. *reg.* 1. (*c*) *Hil.* 9 *Ann. reg.* 4. (*d*) *Mich.* 1654. *ſect.* 2. *Hil.* 15 & 16 *Car.* II.

The ſame Term, 1721. (a)

Ne Recipiatur.

II. NOtice is hereby given *to the Attornies and Practiſers in the Court of Common Pleas at* Weſtminſter, *that the Right Honourable Sir* Peter King, *Knt. Lord Chief Juſtice of the ſame Court,* hath Ordered *that* Ne Recipiatur *ſhall be allowed to be entred for the Sittings of* Niſi prius *after every Term, unleſs the Records of* Niſi prius *and Writs be made up and brought into Court on or before the Days and Sittings reſpectively.* (b)

Robert Maidſtone, *Dep. Cl. Theſ.*

Eaſter, 8 Geo. I. 1722.

Priſoners.

WHereas many Doubts have ariſen on the Rules for diſcharging Priſoners committed to the (c) *Fleet Priſon, the* (d) *County, and other Gaols, and for diſcharging Perſons rendering themſelves, or being rendred to the Fleet Priſon, in Diſcharge of their Bail (by Virtue of Proceſs of this Court) by* Superſedeas *for want of Proſecution; for Remedy whereof,*

It is Ordered by the Court, That if any Plaintiff ſhall (e) declare againſt any Defendant in Cuſtody of the Warden of the Fleet Priſon, or of any Sheriff, or other Officer, by Virtue of any Proceſs of this Court, and ſhall not further proceed to Judgment within three Terms after ſuch Declaration delivered, inclufive of the Term in which the Declaration ſhall be delivered, the Defendant having appeared. Or if any Plaintiff having obtained Judgment in this Court in any Action againſt any Defendant a Priſoner, as aforeſaid, and ſhall not charge ſuch Defendant ſo remaining a Priſoner, in Execution upon the Judgment ſo obtained, within two Terms next after ſuch Judgment ſo had and obtained, including the Term in which the ſaid Judgment ſhall be ſigned, or within two Terms now next enſuing upon Judgment already had, then ſuch Defendant ſo remaining in Priſon may be diſcharged out of Cuſtody, where he ſhall be ſo detained by *Superſedeas*, to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn by the Plaintiff, or his Attorney, why ſuch Plaintiff had not proceeded before that Time to Judgment and Execution, as aforeſaid, upon Notice to either of them given by the Defendant's Attorney or Agent, and Oath made of ſuch Notice given. (f)

And if any Defendant hath, or ſhall render him or herſelf, or be rendred to the Fleet Priſon, in Diſcharge of his or her Bail, at the Suit of any Plaintiff, where no further Proceedings by Declaration have been had againſt ſuch Defendant ſo rendred, before ſuch Render, unleſs the Plaintiff ſhall declare againſt ſuch Defendant within two Terms after ſuch Render; and where any Declaration hath been delivered againſt ſuch Perſons ſo rendring him or herſelf, or being rendred, or Judgment has been had againſt him or her before ſuch Render, unleſs the Plaintiff ſhall proceed to Judgment upon ſuch Declaration delivered within three Terms after ſuch Render (the Defendant having appeared) and charge ſuch Defendant in Execution within two Terms after ſuch Judgment obtained, ſuch Defendant may be diſcharged out of Cuſtody, by *Superſedeas* to be allowed by one of the Juſtices of this Court, if Cauſe ſhall not be ſhewn to the contrary, as aforeſaid, by the Plaintiff, or his Attorney, upon Notice to either of them, given by the Defendant's Attorney, or Agent, and Oath made of ſuch Notice given.

P. King, } *R. Tracey,*
Jo. Bleucowe, } *Rob. Dormer.*

Trin. 10 Geo. I. 1724.

Notice of Trial and Inquiry.

WHereas in Trinity *Term in the ſecond Year of his preſent Majeſty, a Rule of this Court was made,* 'That in all Caſes 'where the Plaintiff concludes *ad Patriam* 'the Defendant's Attorney, or Clerk in Court, 'ſhould be bound to accept of Notice of 'Trial on the Back of the Pleadings.

And whereas in Hillary *Term in the ſixth Year of his ſaid Majeſty's Reign, another Rule of Court was made,* 'Obliging every Defendant's 'Attorney, in all Caſes where Iſſue is not 'joined, after Judgment obtained to accept 'of Notice of Executing a Writ of Inquiry 'from the Time of the Notice of Trial given 'on the Back of the ſaid Pleading', *as by the ſaid Rules will more fully appear.*

And

(a) Notice fixed up in the Prothonotaries Offices. (b) *Eaſt.* 1 *Ja.* II. *reg.* 2. and ſee *ante, May* v. *Annis.* (c) *H.* 14 & 15 *Car.* II. *reg.* 3. *Mich.* 1654. *ſect.* 15. (d) *E.* 5 *W.* & *M. reg.* 3. (e) *Hil.* 8 *Geo.* II. *reg.* 1. (f) If a Priſoner, diſcharged or ordered to be diſcharged by *Superſedeas* for want of Proſecution, ſhall afterwards be arreſted or detained in Cuſtody by Action of Debt, upon Judgment obtained in the Cauſe, a common Appearance will be accepted. *Hil.* 8 *Geo.* II. *reg.* 2.

And whereas the ſaid Rules have, by Experience been found to be of great Uſe and Advantage to Plaintiffs, for the more ſpeedy Recovery of their juſt Debts; but no Proviſion being made in Caſes where Defendants Demur to the Plaintiff's Declaration, and by that means give great Delays to Plaintiffs, becauſe by the ſaid Rules Defendants are not obliged till after Judgment obtained, to accept of Notice of Executing a Writ of Inquiry;

It is therefore now Ordered by this Court, That in all Caſes where the Defendant Demurs to the Plaintiff's Declaration, the Defendant's Attorney, or Clerk in Court, ſhall be obliged to accept of Notice of Executing the Writ of Inquiry on the Back of ſuch Joinder in Demurrer. And in Caſe where the Defendant pleads ſuch a Dilatory Plea, that the Plaintiff is obliged to Demur to, that in ſuch a Caſe the Defendant's Attorney, or Clerk in Court, ſhall be obliged to accept of Notice of Executing a Writ of Inquiry on the Back of ſuch Demurrer.

P. King, } { *Rob. Dormer,*
R. Tracey, } { *Alex. Denton.*

Hil. 11 Geo. I. 1724.

Iſſues.

WHereas Complaint hath been made unto Us, by the Clerk of the (a) Treaſury, and the reſt of the Clerks there, that divers Practiſers of this Court, do oftentimes make up their Iſſues of Terms, in which they were not joined, and thereby greatly defraud the ſaid Officers of their due Fees;

It is therefore Ordered by this Court, That every Iſſue ſhall be entred on Record of the Term in which it was joined, notwithſtanding any Conſent given by the Attornies, or their Agents, on either Side, to the Contrary. And that whoſoever ſhall offend in Breach of this Rule, ſhall be adjudged guilty of a Contempt of this Court, and ſhall be proceeded againſt accordingly.

And it is further Ordered, For the more effectual detecting any ſuch intended Fraud, it ſhall and may be Lawful for the Clerk of the Treaſury to require any Perſon ſuſpected of ſuch illegal Practice as aforeſaid, to produce ſuch Proceedings in the Cauſe, as he the ſaid Clerk of the Treaſury ſhall think neceſſary for the better diſcovering when Iſſue was actually joined.

P. King, } { *Rob. Dormer,*
R. Tracey, } { *Alex. Denton.*

Mich. 12 Geo. I. 1725.

Bail. Outlawry.

IT is Ordered by this Court, That before any Allowance of any Writ of Error, or Reverſing of any (*b*) Outlawry be had by Plea or otherwiſe, through or by want of any Proclamation to be had or made according to the Form of the Statute in that Caſe made and provided, after the firſt Day of *November* in this preſent Term, the Defendant and Defendants in the Original Action ſhall put in (*c*) Bail, not only to appear and anſwer to the Plaintiff in the former Suit, in a new Action to be commenced by the ſaid Plaintiff, for the Cauſe mentioned in the firſt Action, but alſo to ſatisfy the Condemnation, if the Plaintiff ſhall begin his Suit before the End of two Terms next after the allowing the Writ of Error; or otherwiſe avoiding of the ſaid Outlawry.

R. Eyre, Rob. Dormer, Alex. Denton.

Trin. 12 Geo. I. 1726.

Entering Cauſes.

ORdinat' eſt quod nulla Cauſa in aliquo Termino poſt clauſum hujus Termini in libro hujus Cur' ponatur arguend' poſt ultimum diem argumentorum niſi Cur' hic proinde moveatur & illud ordinabit.

IT is Ordered, That no Cauſe in any Term, after the End of this Term, be put in the Book of this Court, to be argued *after the laſt Day of* (*d*) *Arguments*, unleſs the Court here be thereupon moved, and ſhall order it.

Per Cur'. *By the Court.*

Mich. 13 Geo. I. 1726.

Bails.

WHereas great Inconveniences have happened by reaſon that Bails taken before Commiſſioners in the Country and tranſmitted to, and allowed by the Lord Chief Juſtice, or one of the Juſtices of this Court, have not been duly filed with the proper Officer, according to (e) the Rules of this Court;

It

(*a*) *Eaſter*, 5 *W. & W. Mich.* 1654. *ſect.* 21. (*b*) *Hillary*, 2 *Car.* I. *Hil.* 15 & 16 *Car.* II. *Mich.* 17 *Car.* II. *Trin.* 2 *Ja.* II. (*c*) *Mic.* 6 *Geo.* II. *reg.* 6. (*d*) *No Argument on the four laſt and four firſt Days of the Term.* (*e*) *Reg.* 10 *Mar.* 5 *W. & M. Hil.* 6 *Geo.* I. *reg.* 2.

It is therefore Ordered by this Court, That from and after the laſt Day of this preſent Term, all Bails taken before Commiſſioners in the Country, and tranſmitted to and allowed by the Lord Chief Juſtice, or one of the Juſtices of this Court, ſhall be delivered to the Clerk of the ſaid Lord Chief Juſtice, or ſuch other Judge as ſhall allow the ſaid Bail, which Clerk ſhall take the *(a)* Fees due to the proper Officer for the Entry thereof, and ſhall forthwith deliver the ſaid Bail to be filed and pay the ſaid Fees to ſuch proper Officer.

And it is farther Ordered, That every Defendant's Attorney ſhall give notice to the Plaintiff's Attorney of the taking ſuch Bail, within four Days after the Caption thereof. *(b)*

R. Eyre, *Ro. Price*, *Alex. Denton.*

Hil. 13 Geo. I. 1726.

Fines.

It is Ordered, That no Fine whatſoever, taken and acknowledged before any Commiſſioner, by Virtue of any Writ of *Dedimus poteſtatem* to them directed, be allowed to paſs, unleſs ſome Perſon preſent when ſuch Fine was taken and acknowledged, do perſonally appear before the Lord Chief Juſtice, or ſome other Juſtice of this Court, and be examined upon Oath, touching the due Execution thereof, and particularly, whether ſuch Perſon knows the Parties acknowledging ſuch Fine. *(c)*

R. Eyre, *Ro. Price*, } *F. Page.* *Alex. Denton.*

Eaſt. 13 Geo. I. 1727.

Fees due to the Warden of the Fleet. *(d)*

Whereas ſeveral Matters in Controverſy between the Priſoners and the Warden of the Fleet were heard by the Right Honourable Sir Robert Eyre, *Knt. Lord Chief Juſtice of his Majeſty's Court of Common Pleas at* Weſtminſter, *the Honourable* Robert Price, *Eſq; Sir* Francis Page, *Knt. and* Alexander Denton, *Eſq; Juſtices of the ſaid Court, at* Serjeants Inn Hall *in* Chancery-lane, *on* Monday *the twenty-fourth Day of* April, *on* Wedneſday *the twenty ſixth Day of the ſame Month of* April, *on* Monday *the firſt Day of* May *following, and on* Friday *the fifth Day of the ſame Month of* May *in* Eaſter *Term, in the thirteenth Year of the Reign of our Sovereign Lord King* George, Anno Domini 1727. *Upon which hearing the ſaid Lord Chief Juſtice, and the reſt of the Juſtices of the ſaid Court, came to the following Reſolutions.*

I. That there is due and ought to be paid to the Warden of the Fleet for every Commitment Fee (excluſive of Commons) from all Perſons of the Degree of an Eſquire, Gentleman or Gentlewoman, or any other Perſon under thoſe Degrees, who ſhall enter on the Maſter's Side of the ſaid Priſon, 2 *l.* 4 *s.* 4 *d.*

And that there ought to be paid to the Warden by every ſuch Perſon for the Uſe of the Miniſter of the ſaid Priſon, 2 *s.*

II. That there is due and ought to be paid to the Warden, for a Commitment Fee from every Priſoner on the Wards or Common Side, not taking Part of the Poor's Box, 1 *l.* 6 *s.* 4 *d.*

And that every ſuch Perſon ought to pay to the Warden for the Uſe of the Miniſter of the ſaid Priſon, 1 *s.*

And that every Priſoner taking Part of the Poor's Box ought to pay to the Warden, 7 *s.* and 4 *d.* and no more for his Commitment Fee, and nothing to the Miniſter.

III. That there is due and ought to be paid to the Warden of the Fleet for every Render in each Cauſe, 2 *l.* 4 *s.* 4 *d.* and nothing to the Miniſter.

IV. That there is due and ought to be paid to the Chamberlain as his Fee for every Priſoner's Entrance into the Houſe, 1 *s.* and no more.

V. That there is due and ought to be paid to the Warden for every Priſoner's Diſcharge, either by Creditor or *Superſedeas*, as a Fee for his Diſmiſſion out of Priſon, without any Regard to the Number of Cauſes wherewith he ſtands charged, 7 *s.* and 6 *d.* and no more.

VI. That there is due and ought to be paid to the Clerk of the Papers for every Diſcharge of every Action, 2 *s.* and 6 *d.*

And for the Copy of every Cauſe, not exceeding three, 1 *s.*

And for each and every Cauſe exceeding three Cauſes, 4 *d.* beſides the 1 *s.* a-piece for each of the ſaid firſt three Cauſes.

VII. That there is due and ought to be paid to the Clerk of the Papers for his Certificate of the Priſoner's Diſcharge, delivered to the Priſoner himſelf, without any Regard to the Number of Cauſes he ſtood charged with, 2 *s.* 6 *d.*

And for his Certificate to the Warden of ſuch Diſcharge, 2 *s.* 6 *d.*

VIII. That there is due and ought to be paid to the Clerk of the Inquiries on the Diſcharge

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(a) The Fees are now left with the proper Officer. *(b) The Practice is altered. Mic.* 6 *Geo.* II. *(c) Eaſt.* 6 *Ann.* *(d) But ſee the Table of Fees, 19th January the* 3 *Geo.* II.

charge of a Priſoner by the Creditor, and not by *Superſedeas*, 2 *s.* 6 *d.*

IX. That there is due and ought to be paid to the Turnkey (who is now both Porter and Gaoler) for the Priſoner's Entrance into the Houſe, 2 *s.*

And for ſuch Priſoner's Diſcharge to the Turnkey, being both Porter and Gaoler, 2 *s.* 6 *d.*

X. That there is due and ought to be paid to the Turnkey for every Declaration delivered to him for a Priſoner, 1 *s.*

XI. That there is no Fee due to the Warden upon his accepting Security on the Priſoner's having the Benefit of Day Rules.

XII. That there is no Fee due to the Warden for Lodging or Chamber Rent where the Priſoner has not actual Poſſeſſion of the Chamber; but that there is due to the Warden for every Priſoner or Priſoners, his or their Lodging or Chamber Rent, 2 *s.* and 6 *d. per* Week, ſuch Lodging or Chamber being furniſhed.

XIII. That there is due to the Miniſter that officiates and performs Divine Service within the ſaid Priſon for the Time being, from every Priſoner within the Walls of the Priſon, or without the Walls and within the Rules 4 *d. per* Week to be paid to the Warden for the Uſe of ſuch Miniſter.

And that no ſuch Miniſter or any other Clergyman being a Priſoner within the Walls or Rules of the Fleet do preſume to Marry any Perſons without Licenſe within the Priſon or Rules of the Fleet: And that the Warden and his Officers do uſe their utmoſt Care and Vigilance to prevent all ſuch Marriages.

XIV. That there is no freſh Commitment Fee due to the Warden upon the Priſoner's bringing himſelf back to the Fleet by *Habeas Corpus*, where the Warden himſelf had removed him thence by *Habeas Corpus*.

And that there is no Fee, Gratuity or Reward due to the Warden for his returning an *Habeas Corpus*.

But that there is a Fee of 5 *s.* and 4 *d.* due to the Clerk of the Papers, for the Allowance of every Writ of *Habeas Corpus*; and 4 *s.* for the Return of the firſt Cauſe, and 2 *s.* for every other Cauſe, and no more.

XV. That where a Priſoner dies in the Fleet the Warden ſhall detain the Body no longer than till the Coroner's Inqueſt be finiſhed, which ſhall be done with all reaſonable ſpeed; and immediately afterwards the Body ſhall be delivered to the Priſoner's Friends or Relations, if they deſire it, without Fee or Reward.

XVI. That it is the Duty of the Warden, and belongs to him to keep the Priſon Houſe and Windows in neceſſary and good Repair; and to keep the Bog-Houſes and Dunghil as clean and free from Stench and Noiſomneſs as poſſible.

XVII. That a Table of all Gifts and Bequeſts made for the Benefit of the Priſoners in the Fleet, expreſſing the particular Purpoſes for which the ſame were given, be prepared by the Warden, and hung up in the Hall of the ſaid Priſon.

XVIII. That the Wards Gate be opened at five of the Clock in the Summer, and ſeven of the Clock in the Winter, and do ſtand conſtantly open in the Day-Time, according to the Orders made the 17th of *February* 161⅞.

And whereas this Court, upon further Conſideration of the Premiſſes, this preſent Trinity *Term in the thirteenth Year of the Reign of our Sovereign Lord King* George, *is of Opinion that the ſaid Reſolutions are juſt*;

It is hereby Ordered, That the ſame be obſerved by the ſaid Warden and Priſoners and all other Perſons therein concerned. (*a*)

R. Fyre, *F. Page*,
Ro. Price, *Alex. Denton.*

RULES and ORDERS
OF THE
Court of Common Pleas.

Mich. 1 Geo. II. 1727.

Service of Proceſs, and Pleading.

I. *TO eſtabliſh the Practice of this Court upon the late* (*b*) *Act of Parliament, for preventing Frivolous and Vexatious Arreſts*;

It is Ordered, That from and after the laſt Day of this preſent Term, in all Caſes where a Copy of the (*c*) Proceſs of this Court is ſerved upon any Defendant or Defendants, and an Appearance is entred for ſuch Defendant or Defendants, by the Plaintiff's Attorney, purſuant to the ſaid Act, the Plaintiff's Attorney in ſuch Caſe ſhall leave a Copy of the Declaration in the Office, and

(*a*) *Altered by the Table of Fees*, 19 *Jan. the* 3 *Geo.* II. *& reg. Hil.* 3 *Geo.* II. (*a*) 12 *Geo.* I. *cap.* 29. Where the Plaintiff appears for the Defendant, the Declaration ſhall be left in the Office, and Notice thereof given to the Defendant, ſignifying the Nature of the Action, *&c.* (*c*) See *Stat.* 5 *Geo.* II. *cap.* 27.

likewiſe give Notice thereof to the Defendant or Defendants, by delivering an *Engliſh* Notice, written in a Secretary Hand, to ſuch Defendant or Defendants, or by leaving the ſame at the laſt, or moſt uſual Place of Abode of ſuch Defendant or Defendants, ſignifying the Nature of the Action, at whoſe Suit it is proſecuted, and in whoſe Office ſuch Declaration is left: And that, in Caſe of ſpecial *(a)* Writs, returnable the firſt Returns of *Hillary* and *Trinity* Terms, and the firſt or ſecond Returns in *Eaſter* and *Michaelmas* Terms, ſuch Defendant or Defendants, ſhould take Notice, that unleſs ſuch Defendant or Defendants, plead to ſuch Action within four Days after the Appearance Day of the Return of ſuch Writ; and in Caſe of a common *Capias*, or any other ſpecial Writ within the firſt four Days of the next Term, Judgment will be entred againſt ſuch Defendant or Defendants, by Default.

And from the Time of giving ſuch Notice as aforeſaid, ſuch Delaration ſhall be deemed well delivered to ſuch Defendant or Defendants, and not otherwiſe.

And in Caſe ſuch Defendant, or Defendants, after ſuch Notice given, do not plead by the Time the Rules for pleading are out, the Plaintiff in ſuch Caſe may ſign his Judgment (a Rule to plead being firſt given) without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering Notice in Writing to ſuch Defendant or Defendants, or by leaving the ſame at the laſt or moſt uſual Place of Abode of ſuch Defendant or Defendants; which ſhall be a ſufficient Notice to ſuch Defendant or Defendants, of the Time of executing ſuch Writ of Inquiry.

And it is further Ordered, That from and after the laſt day of this preſent Term, the Rule made the laſt *Trinity* Term, to eſtabliſh the Practice of this Court upon the ſaid late Act of Parliament, ſhall be diſcharged.

R. Eyre, *Alex. Denton*, } *Rob. Price*, *S. Cooper*.

Mich. 1 Geo. II. 1727.

Notice fixed up in the Prothonotaries Offices.

Demands.

II. *Declarations, Pleas, Replications and other Pleadings, and alſo Oyer of Writs, Bonds, and other Deeds, ſhall be demanded by a Note in Writing.* *(b)*

Mich. 2 Geo. II. 1728.

Notice fixed up in the Office.

Motions.

I. *Attornies of this Court* are deſired to take Notice, *That the Court will enlarge no Rule for ſhewing Cauſe, unleſs Notice be given of Motion to enlarge ſuch Rule, and Affidavit made of ſuch Notice. And likewiſe that the Court will not ſet aſide any Judgment for Irregularity, unleſs Motion be made to the Court for that Purpoſe,* (c) *before a Writ of Inquiry executed.*

The ſame Term, 1728.

Notice fixed up in the Office.

Attorneys.

II. NOtice is hereby given, *That whoſoever would be admitted an Attorney, muſt apply for that Purpoſe, before the laſt Week in Term.*

Hil. 2 Geo. II. 1728.

Declarations in Ejectment.

WHereas Complaint hath been made unto this Court of unwarrantable Practices, in regard to Declarations in Ejectment brought and delivered to the Secondaries of this Court, in order to have Rules to plead: For Remedy thereof,

It is Ordered by the Court, That from and after the firſt Day of *February* in this preſent Term, no Declaration or Declarations in Ejectment ſhall be taken in, or received by any of the Secondaries of this Court, unleſs ſuch Declaration or Declarations, be ſigned by ſome Serjeant at Law, and delivered by himſelf to one of the Secondaries, in open Court.

And it is further Ordered, That the Secondaries ſhall in the Morning next after the End of every Term, and at all other Times, when required, produce and ſhew to any Perſon or Perſons who ſhall demand the ſame, their Alphabetical Paper of Ejectments mov'd or

(a) *Enlarged to all Proceſs, by the Rule Mich.* 3 *Geo.* II. *and ſee the Rule Eaſt.* 3 *Geo.* II. (b) Ante, *Anonimus Eaſt.* 11 *Anne.* (c) Ante, *Grimes* v. *Clever. Smith* v. *Jenks. Morſe* v. *Farnham.*

or delivered into Court, in each Term, in manner aforeſaid.

R. Eyre, *Alex. Denton,*
Rob. Price, *J. Forteſcue A.*

Mich. 3 Geo. II. 1729.

Copies of the Iſſue.

I. IT is hereby Ordered, That in all Cauſes which ſhall be tried at the Bar of this Court, the Lord Chief Juſtice, and the reſt of the Juſtices of the ſaid Court, ſhall reſpectively have Copies of the Iſſues in the ſaid Cauſes delivered to them four Days before the Time appointed for Trial of ſuch Cauſes.

By the Court.

The ſame Term, 1729.

Time of Pleading.

II. IT is Ordered, That upon all Proceſs ſued out of this Court, returnable the firſt or ſecond Return of any Term, if the Plaintiff declares in *London* or *Middleſex*, and the Defendant lives within twenty Miles of *London*, the Defendant ſhall plead within four Days after ſuch Declaration delivered, without any Imparlance; and ſuch Declaration may be delivered *de bene eſſe*. And in Caſe the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, the Defendant ſhall plead within eight days after the Declaration delivered, without any Imparlance; and in Default of Pleading, as aforeſaid, the Plaintiff may ſign his Judgment. (*a*)

By the Court.

January 19. 3 Geo. II. 1729.

A Table of Fees *to be taken by the* Warden *of the Priſon of the* Fleet *for any Priſoner or Priſoners Commitment, or coming into Gaol or Chamber-Rent there, or Diſcharge from thence in* any Civil Action;

Settled *and* Eſtabliſhed *the* 19*th. Day of* January *in the third Year of the Reign of his Majeſty King* George *the Second*, A. D. 1729. *Purſuant to an Act of Parliament lately made, Intitled* An Act for the Relief of Debtors, in reſpect to the Impriſonment of their Perſons.

Every Priſoner charged with one or more Actions (who at his own Deſire ſhall go on the Maſter's Side) to pay to the Warden for a Commitment Fee, 1 *l.* 6 *s.* 8 *d.*

Every Priſoner charged with one or more Actions (who ſhall go on the Common Side) not being intitled to partake of the Poor's Box, to pay 13 *s.* 4 *d.*

Every Priſoner intitled to partake of the Poor's Box.

Every Priſoner to pay for his Diſcharge 7 *s.* 4 *d.*

Every ſuch Priſoner on the Maſter's Side, who at his own Deſire ſhall have a Bed to himſelf, to pay for Chamber-room, uſe of Bed and Bedding and Sheets, to the Warden *per* Week, 2 *s.* 6 *d.*

If two in a Bed and no more, for Chamber-room, uſe of Bed, Bedding and Sheets, each to pay to the Warden *per* Week, 1 *s.* 3 *d.*

If the Priſoner finds his own Bed, Bedding and Sheets, (which the Warden is in no ſort to hinder him of) then he ſhall pay for Chamber room to the Warden *per* Week 1 *s.* 3 *d.*

If there be two Priſoners in one Bed, finding their own Bed, Bedding and Sheets, then each of them to pay to the Warden *per* Week 7 *d.* ½.

Every Priſoner not being intitled to partake of the Poor's Box, to pay to the Porter and Gaoler, now called Turnkeys, on his Commitment, 2 *s.*

Every Priſoner on a Commitment, upon a Surrender at a Judge's Chamber, to pay to the Tipſtaff, 6 *s.* 8 *d.*

Every Priſoner on a Commitment upon a *Habeas Corpus*, at a Judge's Chamber, to pay to the Tipſtaff 4 *s.* 2 *d.*

Every Priſoner on a Commitment in Court to pay to the Tipſtaff 7 *s.* 6 *d.*

No other Fees for any Priſoner for the Uſe of Chamber, Bed, Bedding or Sheets, or upon Commitment or Diſcharge of any Priſoner in any Civil Action, nor any Commitment Fee to be taken of any Priſoner intitled to partake of the Poor's Box, nor any Chamber-rent to be taken of any Priſoner on the Common Side.

R. Raymond,
R. Eyre,
Tho. Pengelly.

Ed. Bellamy,
John Thompſon,
Rob. Aſſop,
John Barnard.

Hil.

(*a*) See *Eaſter*, 3 *Geo.* II. *Former Rules, Hil.* 9 *Ann. reg.* 2. *Mic.* 1 *Geo.* II.

Hil. 3 Geo. II. 1729.

De Termino Sancti Hillarii *anno regni Domini* Georgii *Secundi nunc Regis Magnæ Britanniæ, &c.* Tertio.

Regula generalis in Communi Banco.

Warden of the Fleet and Priſoners.

ORdinatum eſt quod omnes & ſinguli Ordines ſive Regulæ hic inferius ſcripti & ſtabiliti ſecundum directionem cujuſdam Actus Parliamenti anno regni dicti Domini Regis ſecundo facti & editi, intitulati An Act for the relief of Debtors with reſpect to the Impriſonment of their Perſons, *bene ſtricte & fideliter obſervati & conſervati erunt tam per Guardianum Priſonæ Domini Regis de la Fleet & omnes officiarios & ſervos ſuos quam per omnes Priſonarios qui modo ſunt vel in futur' de tempore in tempus erunt commiſſi cuſtodiæ præfati Guardiani.*

Et ulterius ordinatum eſt quod hæc regula cum omnibus & ſingulis Ordinibus ſive Regulis prædictis affixa erit in Aula dictæ priſonæ pro uſu beneficio & inſpectione priſonariorum in priſona prædicta detentorum.

Per Cur'.

IT is Ordered, That all and ſingular the Orders or Rules here underwrote and eſtabliſhed purſuant to an Act of Parliament made and publiſhed in the ſecond Year of the Reign of our ſaid Lord the King, intituled *An Act for the Relief of Debtors with reſpect to the Impriſonment of their Perſons*, be well, ſtrictly and truly obſerved and kept, as well by the Warden of the Priſon of our Lord the King of the Fleet, and all his Officers and Servants, as by all Priſoners who now are, or at any Time hereafter ſhall be, committed to the Cuſtody of the ſaid Warden.

And it is further Ordered, That this Rule, with all and every the Rules or Orders aforeſaid ſhall be fixed up in the Hall of the ſaid Priſon for the Uſe, Benefit, and Inſpection of the Priſoners detained in the aforeſaid Priſon.

By the Court.

Conſtitutions *and Orders renewed and eſtabliſhed touching the Government of the Fleet Priſon, by Sir* Robert Catlyn, *Knt. Chief Juſtice of the* King's Bench, *Sir* William Cordell, *Knt. Maſter of the Rolls*; *Sir* James Dyer, *Knt. Chief Juſtice of the* Common Pleas; *Sir* Edward Saunders, *Knt. Chief Baron of the* Exchequer, *and others by Virtue of a Commiſſion under the Great Seal of* England, *bearing Date the 3d Day of* June *in the third Year of the Reign of Queen* Elizabeth, *and afterwards reviewed and exemplified under the Great Seal, the firſt Day of* February *in the 37th Year of the ſame Reign; and again declared and eſtabliſhed as Rules and Orders by which the ſaid Priſon of the Fleet ſhould be governed by Letters Patent, granted to Sir* Jeremy Whichcot, *of the Office of Warden of the Fleet, in the 19th Year of the Reign of King* Charles *the Second.*

I. That it may be lawful to the ſaid Warden, or his Deputy, to appoint ſo many of the Houſhold Servants as to either of them ſhall ſeem good, to open and ſhut the two Utter-Gates of the Fleet at ſuch Hours as the Gates of *Ludgate* and *Newgate* are accuſtomed to be opened and ſhut; and the ſaid Perſons to carry in their Hands Halberts, Bills or any other Weapon, as ſhall ſeem good unto the ſaid Warden or Deputy, within his Precinct or Liberty.

II. That it is and ſhall be lawful to the ſaid Warden and his Deputy to take Order from Time to Time, that no Perſon coming there do carry any Weapon further than the Porter's Lodge there, be he Stranger or other, unleſs they be Licenſed ſo to do by the Diſcretion of ſuch as the ſame Warden ſhall appoint to keep the Gate there.

III. That it may be lawful for the ſaid Warden, or his Deputy, and ſo many of his Houſhold as ſhall be thought needful, to keep Watch in Harneſs or otherwiſe within his Precinct at all Times, as he ſhall ſee Cauſe for his better Safeguard, if he ſhall ſuſpect any Priſoner within his Cuſtody to intend to make an Eſcape.

IV. That it may be lawful for the ſaid Warden to take Order at all Times for ſuch Money as ſhall be gathered at the Box, or otherwiſe generouſly given to Poor Men there for the Diſtribution thereof amongſt them, if any Contention ſhall ariſe; and that the ſaid Poor Men ſhall always keep one Key of the ſaid Box, and another Key to be at the Warden's Appointment.

Orders made by the Right Honourable Sir Edward Herbert, *Knt. Lord Chief Juſtice of his Majeſty's Court of* Common Pleas *at* Weſtminſter, *and the reſt of the Juſtices of the ſaid Court,* Friday *the 17th Day of* February, Anno Domini 1687, *concerning his Majeſty's Priſon of the Fleet.*

V. If the Priſoners on the Maſter's Side refuſe, or be not able to pay their Chamber-Rent, then and in ſuch Caſe the Warden has Liberty to turn them out of his or her Chamber into the Wards; but no Priſoner whatſoever to be confined under the Pretence of Non-payment of Chamber-Rent, but all of them to have Liberty of walking in the Foreyard, Hall and Cellar of the Houſe in the Day Time without Interruption; the Ward Gates in the Day Time to ſtand conſtantly open; and to be opened, (*viz.*) at five a Clock in the Morning in the Summer, and ſeven in the Winter.

And the ſaid Juſtices **do further Order**, That the Warden ſhall be at Liberty to ſhut the Ward Gates at nine of the Clock at Night in the Winter-Time, and at ten in the Summer, if he ſo think fit, provided he keep a Watchman conſtantly to attend there, to let out and in ſuch Perſons as ſhall have Occaſion to go to the Neceſſary-Houſe, they returning as ſoon as he or ſhe has done there.

VI. That the Warden ſhall not for the future Detain or Imbezil any Priſoner's Goods, but that the ſaid Warden has Liberty to detain the Perſon of ſuch Priſoner or Priſoners after they are diſcharged by their Creditors, until all lawful Fees and Dues ſhall be fully paid and ſatisfied.

VII. That the Warden ſhall with all convenient ſpeed make and provide a confined Room or Dungeon in the Wards, as it was before the great Fire of *London*, for the confinement of Perſons endeavouring to make their Eſcapes, or guilty of any other great Miſdemeanor, that the general Quietneſs and Liberty of the reſt of their fellow Priſoners may not be reſtrained or ſuffer thereby.

And the Perſons whoſe Names are hereunto ſubſcribed, having reviewed and conſidered the ſaid Rules and Orders, and being informed that a confined Room was provided, according to the ſaid laſt mentioned Order, and that the ſame is boarded, wholeſome and dry, **do Order and Declare**, that the Rules and Orders before mentioned ſhall continue to be Rules and Orders for the better Government of the Fleet Priſon, and be obſerved accordingly.

And whereas ſome further Regulations are proper and neceſſary to be made for the better Government of the ſaid Priſon, the Perſons whoſe Names are hereunto ſubſcribed, **do further Order**,

VIII. That the Warden of the Fleet do keep the Chapel of the Fleet in good repair, and take Care that Divine Service be performed, and the Sacrament of the Lord's Supper adminiſtred therein at the uſual and proper Times, according to the Rites and Ceremonies of the Church of *England*; and all Priſoners are required to attend at the Times aforeſaid, and not to abſent themſelves from the ſaid Chapel without reaſonable Cauſe.

IX. And it is hereby further Ordered, That no Chaplain of the Fleet, or any Clergyman being a Priſoner within the Walls or Rules of the Fleet, do preſume to marry any Perſon without Licenſe within the Priſon or Rules of the Fleet, and that the Warden and his Officers do uſe their utmoſt Diligence to prevent all ſuch Marriages.

X. That the Warden do cauſe the Stocks to be kept up in the ſaid Priſon (as has been anciently practiſed) for the puniſhment of ſuch Priſoners as ſhall blaſpheme the Name of God, be guilty of prophane Curſing or Swearing, or ſhall behave themſelves in a diſorderly manner.

XI. That no Priſoner do take Poſſeſſion of any Chamber within the Priſon, but with the Conſent of the Warden, or his Deputy, or pull down any Partition, or make any other material Alteration there, without the Conſent of the Warden, or his Deputy, but that the Diſpoſal and Appointment of the Chambers or Rooms within the ſaid Priſon be in the Warden, or his Deputy, only, yet ſo as neither of them do turn any Priſoner out of Poſſeſſion, who ſhall be rightfully poſſeſſed of a Chamber without reaſonable Cauſe; and that every Priſoner on his or her Diſcharge, do deliver over to the Warden, his Deputy, or Chamberlain, the Key of his Chamber, and all the Warden's Furniture therein.

XII. That the Warden or his Deputy may turn any Priſoner out of his Chamber to the Common Side, that ſhall refuſe or neglect to pay his or her Chamber-Rent for the Space of three Months; and that the Warden, or his Deputy, ſhall in ſuch Caſe cauſe an Inventory to be made of the Priſoner's Goods and Effects (if any) ſigned by two Witneſſes, and ſhall immediately deliver ſuch Goods and Effects to ſuch Priſoner; but the Warden may ſtill detain the Perſon of ſuch Priſoner, though diſcharged by the Plaintiff, or in any other manner, until his Arrears of Chamber-Rent ſhall be fully ſatisfied and paid.

XIII. That no Priſoner or other Perſon, ſhall keep any publick Room within the ſaid Priſon for ſelling any Victuals, Wine, Brandy, Punch, Beer, Ale or other Liquor, without Leave from the Warden, or his Deputy; and if any Priſoner or Priſoners, ſhall offend in the Premiſſes, it ſhall be lawful for the Warden or his Deputy, to turn him, her, or them, out of their Room or Rooms to the Common Side; and the Warden and his Deputy are hereby required to take Care that good Order be kept in ſuch publick Room or Rooms, as ſhall be allowed by either of them to be uſed as aforeſaid.

XIV. That the Warden do take effectual Care that every Priſoner committed to his Cuſtody be conveyed to the Priſon of the Fleet, without being carried to any publick Victualling or Drinking-Houſe, or the private Houſe of any Tipſtaff, Officer or Miniſter of the Fleet, or of any Tenant or Relation of his, without the free and voluntary conſent of the Perſon or Perſons ſo in Cuſtody, and that no Garniſh, or Money, ſhall be extorted by any Priſoner or Priſoners from any Perſon committed, for his coming into the ſaid Priſon.

XV. That the Warden do cauſe a Table of the Gifts and Bequeſts made for the Benefit of the Priſoners of the Fleet, expreſſing the particular Purpoſes, for which the ſame are given, to be fairly writ in a plain and legible Hand, to be hung up in the Hall of

the ſaid Priſon, and that the Warden take care that no Priſoner, or Priſoners, be deprived or defrauded of his, her or their Shares, Dues or Dividends, of the Charities ſo given; and that no Cellar-man, Turnkey, or other Officer, or Servant of the Warden, ſhall have any Share or Part in any Charity given to the Priſoners, or bear any Office in the ſaid Priſon which may intitle him to any Power in the Receipt or Diſpoſition of ſuch Charity.

XVI. That every Priſoner who ſhall make Oath before one of the Judges of the Court, from whence the Proceſs iſſued, upon which he or ſhe ſhall be taken, or charged, or before a Commiſſioner impowered by ſuch Court, that he or ſhe is not worth five Pounds, and cannot ſubſiſt without the Charities belonging to the Priſoners of the Fleet, ſhall immediately be admitted to all Shares, Dividends, and Profits ariſing from ſuch Charities.

XVII. That two Rooms marked 9 and 10 up the Chapel Stairs, ſhall be kept as an Infirmary for the Uſe of the Priſoners on the Common Side, who ſhall fall Sick of ſuch Diſeaſes as ſhall require their being removed, to prevent Infection, or for neceſſary Care and Relief; and that no Priſoner ſhall be obliged to lie in the ſame Bed with a diſeaſed Perſon.

XVIII. That the Warden ſhall keep the Priſon-Houſe and Windows in good and neceſſary Repair, and keep the Drains, Bog-Houſes, and Dunghill as clean and free from Stench and Noiſomneſs as poſſible.

XIX. That when any Priſoner dies within the ſaid Priſon, the ſaid Warden ſhall forthwith give Notice of ſuch Death to the Coroner, that the ſaid Coroner may enquire, according to Law, how ſuch Priſoner came by his Death; and that the ſaid Warden ſhall detain the Body no longer than till the Coroner's Inqueſt have made their Inquiſition, which ſhall be done with all convenient Speed, and that immediately afterwards the dead Body ſhall be delivered to the Priſoner's Friends or Relations, if they deſire it, without Fee or Reward.

XX. That the Warden do not ſue or procure to be ſued out any Writ of *Habeas Corpus* to remove any Priſoner from the Priſon of the Fleet to the Priſon of the *King's Bench*.

XXI. That the Warden ſhall keep a Book in which all Commitments ſhall be fairly entred in the Words of ſuch Commitment within fourteen Days after any Priſoner ſhall be committed.

XXII. That the Warden ſhall keep another Book, containing the Names of every Priſoner actually brought into the Fleet, and taken into the Houſe, with the Name of the Party at whoſe Suit he ſhall be committed, and the Time when the Priſoner was brought to the Fleet, and received into the Priſon, ſpecifying withall the Court or Judge by whoſe Authority he ſhall be committed.

XXIII. That every Tipſtaff, to whom any Priſoner ſhall be delivered in Cuſtody at a Judge's Chamber, ſhall keep a Book, containing the Name of ſuch Priſoner, the Time when he was taken into Cuſtody, to be ſigned by ſuch Judge's Clerk; and ſuch Judge's Clerk ſhall keep another Book, in which the like Entry ſhall be made, ſigned by the Tipſtaff.

XXIV. That the Warden ſhall keep a Book in which *Memorandums* ſhall be entered of all Declarations delivered to the Turnkey or Porter, againſt any Priſoner in the Fleet Priſon, containing the Names of the Parties, the Cauſe of Action, and the Time when ſuch Declaration ſhall be delivered.

XXV. That the Warden ſhall keep a Book in which all Diſcharges of Priſoners ſhall be fairly entered, which Entry ſhall ſpecify how ſuch Diſcharge was made, whether by the Plaintiff, by *Superſedeas*, or otherwiſe, and ſuch Entry ſhall be made within five Days after every Diſcharge.

XXVI. That the Warden ſhall keep a Book, in which, every Writ of *Habeas Corpus*, upon which the Priſoner ſhall not be committed or the Cuſtody altered, with the Return of every ſuch Writ of *Habeas Corpus*, ſhall be fairly entered.

XXVII. That all the Books before mentioned, except the Tipſtaff's Book, ſhall be kept in the publick Office of the Clerk of the Papers of the Fleet; and that all Perſons ſhall have Liberty to reſort to them, and to take Copies as there ſhall be Occaſion.

XXVIII. That no Clerk, Officer or Servant whatſoever, belonging to any Judge of this Court, ſhall directly or indirectly Demand, Receive or take any Gratuity, Fee or Reward, for or by Reaſon of any Petition, Complaint, or Application, that ſhall be made by any Priſoner or Priſoners of the ſaid Priſon, purſuant to, or founded upon any of the Rules and Orders herein before mentioned, or concerning any Miſ-government in the Fleet.

XXIX. Laſtly, that the ſaid Warden and his Officers do treat the ſeveral Priſoners in his Cuſtody with all Tenderneſs and Humanity, and that ſuch Priſoners do behave themſelves towards the Warden with that Submiſſion and Regard which the Law requires.

R. Eyre, *Alex. Denton*,
Rob. Price, *J. Forteſcue A.*

Eaſter,

Eaſter, 3 Geo. II. 1730.

Time of Pleading.

IT is Ordered, That all Declarations in *London* or *Middleſex*, delivered purſuant to the Rule of this Court made the laſt *Michaelmas* Term, on Proceſs returnable the firſt or ſecond Returns of any Term, where the Defendant lives within twenty Miles of *London*, ſhall be delivered, with Notice that the Defendant or Defendants, plead to ſuch Action within four Days after ſuch Declaration delivered; and that all Declarations where the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from *London*, ſhall be delivered with Notice to plead within eight Days after ſuch Declaration delivered. (*a*)

The Rule made in *Michaelmas* Term in the firſt Year of his preſent Majeſty's Reign, to eſtabliſh the Practice of this Court, upon the late Act of Parliament for preventing frivolous and vexatious Arreſts, to the contrary thereof in any wiſe notwithſtanding.

R. Eyre, *Rob. Price*, } { *Alex. Denton*, *J. Forteſcue A.*

Trin. 3 & 4 Geo. II. 1730.

Bail. (*b*)

IT is Ordered, That from and after the laſt Day of this Term, if ſpecial Bail put in by the Defendant be (*c*) excepted to, the Defendant ſhall (*d*) perfect his Bail within four Days after Exception taken, in Default whereof the Plaintiff ſhall be at Liberty to proceed upon the Bail-Bond.

By the Court.

Mich. 5 Geo. II. 1731.

Filing Warrants of Attorney. (*e*)

WHereas many Inconveniencies have happened to the Suitors in this Court, by Attornies neglecting to file their Warrants of Attorney, by which Neglect Judgments have been reverſed, and Plaintiffs have loſt their Debts; to prevent the like Inconveniencies for the future,

It is Ordered by this Court, That from and after the firſt Day of the next Term, no Judgment whatever (except final Judgments upon *Poſteas*, and Writs of *Inquiry* and *Non-proſs*) ſhall be ſigned by any of the Prothonotaries of this Court, unleſs the Stamp of the Clerk of the Warrants of this Court be firſt impreſſed on the Paper whereon ſuch Judgment is to be ſigned, whereby it may appear that Warrants of Attorney are duly filed.

By the Court.

Mich. 6 Geo. II. 1732.

Tranſmitting Bails.

1. *WHereas by a Rule of this Court, made in* Hillary *Term in the ſixth Year of the Reign of the late King* George *the firſt, it was, among other Things,* Ordered, *'That 'all Bails taken by Commiſſioners, purſuant to 'the late Act of Parliament, for taking ſpecial 'Bails in the Country, ſhould be tranſmitted 'to the Lord Chief Juſtice, or to one of the 'Juſtices of this Court, viz. Every Bail taken 'within forty Miles of* London, *within ten 'Days after the Caption thereof; and every 'Bail taken above forty Miles from* London, *'within twenty Days after the Caption there-'of, unleſs all the Juſtices ſhould be in their 'Circuits, and then as ſoon as any one of them 'ſhould be returned out of his Circuit, and 'after ſuch Tranſmiſſion, ſhould be forthwith 'delivered to, and filed with the proper Of-'ficer, to be entred upon Record, or other-'wiſe it ſhould be as no Bail; and the Plain-'tiff at Liberty to proceed on the Sheriff's 'Bond, as if no ſuch Bail were ever put in.*

And whereas the ſaid Rule hath proved ineffectual, and ſeveral Abuſes are daily committed by Defendants Attornies ſuppreſſing ſuch Bails, or neglecting to file the ſame by the Time limited in the ſame Rule, to the manifeſt Wrong and Injury of the Plaintiffs in ſuch Actions, and in Contempt of this Court; now for the Remedying thereof,

It is Ordered, That from and after the laſt Day of this preſent *Michaelmas* Term, all Bails taken before any Commiſſioner in the Country, ſhall be tranſmitted and filed with the proper Officer, according to the ſaid Rule, and that no ſuch Bail ſhall be received or filed, unleſs the ſame be tranſmitted within the reſpective Times appointed by the (*f*) ſaid Rule, without Leave of this Court firſt had and obtained.

By the Court.

The

(*a*) *Mic.* 3 *Geo.* II. *reg.* 2. (*b*) *Mich.* 1654. *ſect.* 11. *Hil.* 13 & 14 *Car.* II. *Reg.* 10th *Mar.* 5 *W.* & *M.* (*c*) *Mic.* 6 *Geo.* II. (*d*) i. e. *Shall juſtify without new Exception.* (*e*) *Former Rules Trin.* 35 *H.* VI. *Hil.* 14 & 15 *Car.* II. *Hil.* 2 & 3 *Jac.* II. *Stat.* 32 *H.* VIII. *cap.* 30. 18 *Eliz. cap.* 14. (*f*) *Hil.* 6 *Geo.* I. *reg.* 2. *Former Rules* 10th *Mar.* 5 *W.* & *M.* *Mic.* 13 *Geo.* I.

The ſame Term, 1732.

Exception to Bail.

II. *WHereas it has been uſually practiſed in this Court, in all Caſes where Bail-Bonds have been taken, that if the ſame Bail taken by the Sheriff be put in above, that ſuch Bail ſhall not be excepted againſt, but ſhall ſtand good and abſolute; and whereas ſuch Practice hath been found to be Inconvenient in many Inſtances;*

It is therefore Ordered by the Lord Chief Juſtice, and the reſt of the Juſtices of this Court, that from and after the laſt Day of this preſent Term, in all Caſes wherein Bail-Bonds ſhall be taken, and the ſame Bail is put in above, the Plaintiff may (*a*) except againſt ſuch Bail.

By the Court.

The ſame Term, 1732.

Demurrer Books. (*b*)

III. *WHereas great Delays have been occaſioned by Defendants Attornies not delivering Demurrer-Books in due Time to the two puiſne Judges of this Court;*

It is Ordered, That from and after the laſt Day of this Term the Plaintiff's Attorney ſhall deliver all the Demurrer-Books to the Lord Chief Juſtice and the reſt of the Juſtices of this Court, and the Defendant's Attorney ſhall pay the Plaintiff's Attorney for two of the ſaid Books, two Days at leaſt before the Day appointed for arguing ſuch Demurrer, and the Defendant ſhall not be heard by his Counſel, when the Cauſe comes on to be argued, unleſs ſuch Payment be made as aforeſaid.

By the Court.

The ſame Term, 1732.

Signing Judgments. (*c*)

IV. IT is Ordered by the Lord Chief Juſtice and the reſt of the Juſtices of this Court, That from and after the laſt Day of this Term, all Judgments ſigned in Cauſes depending in this Court, ſhall be ſigned in the Office of one of the Prothonotaries of this Court, and not elſewhere.

By the Court.

The ſame Term, 1732.

Bail.

V. IT is Ordered by the Lord Chief Juſtice, and the reſt of the Juſtices of this Court, that from and after the laſt Day of this Term no Attorney of this or any other Court, or any Perſon practiſing as ſuch, ſhall be Bail in any Suit or Action depending in this Court. (*d*)

By the Court.

The ſame Term, 1732.

Bail on Error.

VI. *WHereas the Rule made in* Trinity *Term in the third and fourth Years of his preſent Majeſty's Reign,* 'For obliging Defendants to perfect their *ſpecial Bail* within four 'Days after Exception taken, has anſwered 'the Ends for which it was made; but no 'Proviſion has been yet made, touching *Bail* 'put in on *Writs of Error*. (*e*)

It is therefore Ordered, That in all Caſes where Bail ſhall be filed on Writs of Error, ſuch Bail ſhall likewiſe be perfected within four Days after Exception taken thereto, or in Default thereof, the Clerk of the Errors of this Court ſhall (*f*) Non proſs ſuch Writs of Error.

By the Court.

The ſame Term, 1732.

Bail.

VII. *WHereas many Inconveniencies happen in Cauſes depending in this Court by reaſon that Sheriffs Officers, Bailiffs and other Perſons concerned in the Execution of Proceſs, offer themſelves, and are permitted to be Bail in many Actions, and for great Sums of Money; now for Prevention of the like Miſchief and Inconveniencies for the future;*

It is Ordered by the Lord Chief Juſtice and the reſt of the Juſtices of this Court, that from and after the laſt Day of this preſent Term, no Sheriff's Officer, Bailiff, or other Perſon concerned in the Execution of Proceſs, ſhall be permitted or ſuffered to become Bail in any Action or Suit depending in this Court.

By the Court.

(*a*) *Trin.* 3 & 4 *Geo.* II. (*b*) *Eaſt.* 27 *Car.* II. (*c*) *Trin.* 29 *Car.* II. *reg.* 5. (*d*) *Trin.* 24 *Eliz. ſect.* 8. *Mich.* 1654. *ſect.* 1. (*e*) *Mic.* 12 *Geo.* I. (*f*) *Trin.* & *Mic.* 28 *Car.* II.

Hil. 7 Geo. II. 1733.

Notice fixed up in the Prothonotaries Offices.

Notices to Appear.

ATTORNIES are deſired to obſerve, *That in Notices to appear, to be ſerved upon Defendants with Copies of Proceſs, purſuant to the late* (a) *Act of Parliament, the Day of the Return of ſuch Proceſs muſt be inſerted, although it happens to be upon a Sunday.*

Hil. 8 Geo. II. 1734.

Priſoners in the Fleet.

I. IT is ORDERED, That from and after the laſt Day of this Term, no Copy of a Declaration delivered at the Fleet Priſon againſt any Priſoner there, ſhall be a ſufficient Charge to hold ſuch Priſoner to Bail, or to retain ſuch Priſoner in Cuſtody for want of Bail; Unleſs an Affidavit, that the Plaintiff's Cauſe of Action amounts to ten Pounds or upwards, be firſt made and filed in the proper Prothonotary's Office, and an Indorſement made by the ſaid Prothonotary or his Deputy, upon ſuch Copy of a Declaration, ſignifying the Sum of Money ſpecified in ſuch Affidavit, for which Sum ſo indorſed, Bail ſhall be required, and for no more.

By the Court.

The ſame Term, 1734.

Priſoners. (b)

II. IT is ORDERED, from and after the laſt Day of this Term, in all Caſes where a Priſoner in the Fleet or other Gaol or Priſon is diſcharged, or ordered to be diſcharged by this Court, or any of the Juſtices thereof, by *Superſedeas* for want of Proſecution, and ſuch Priſoner be afterwards arreſted, or detained in Cuſtody by Action of Debt, brought upon Judgment obtained in the Cauſe wherein ſuch Priſoner was ſo diſcharged, or ordered to be diſcharged, *that* a common Appearance ſhall be accepted for the Defendant in ſuch Action of Debt upon Judgment.

By the Court.

Hil. 8 Geo. II. 1734.

Notice fixed up in the Judges Chambers.

Bails.

III. *BAILS may be taken* (in the (c) *Abſence of the Filacer*) *on ſtampt Parchment, upon bringing a true Abſtract of the Writ.*

Eaſter, 10 Geo. II. 1736.

Time of delivering Notices, &c.

TO aſcertain the Practice of this Court concerning the Time for the Delivery and Demand of Declarations and Pleadings, and the ſerving of Notices of all Kinds,

IT is ORDERED by this Court, That from henceforth all Declarations and Pleadings ſhall be delivered, all ſuch Demands made, and all Notices given before Nine of the Clock in the Evening.

AND IT is further ORDERED, That the Rule made in *Michaelmas* Term in the 8th Year of his preſent Majeſty be diſcharged.

By the Court.

Trin. 10 Geo. II. 1736.

Notice fixed up in the Offices.

Recoveries. Scire Facias.

ATTORNIES are deſired to take Notice, *That from and after the firſt Day of next* Michaelmas *Term, all* Præcipe's *for Recoveries, and Writs of* Scire facias, *be entered in the Office on the Remembrance of each reſpective Prothonotary to whom they belong, and that henceforth no Remembrances will be lent out for that Purpoſe.* (d)

Trin. 10 & 11 Geo. II. 1737.

Records.

TO prevent Delays in the Trial of Cauſes in the Circuits,

IT is ORDERED by all the Judges of England, That in every Cauſe to be tried before them

(a) *Stat.* 5 *Geo.* II. *cap.* 27. *Mic.* 1 *Geo.* II. *Eaſt.* 3 *Geo.* II. (b) *Eaſt.* 8 *Geo.* I. (c) *Perme Rule Trin.* 1 *W. & M.* (d) *Mic.* 29 *Car.* II.

them in their reſpective Circuits, the Writ and Record ſhall be entered together; and that no Record ſhall be received without the Writ.

Wm. Lee, *J. Willes*, *Ja. Reynolds*, *F. Page*, *Alex. Denton*, *Law. Carter*, } { *E. Probyn*, *J. Comyns*, *J. Forteſcue A.* *Wm. Thomſon* *W. Forteſcue.*

Hil. 11 Geo. II. 1737.

Affidavits.

I. IT is Ordered, That from and after the laſt Day of this Term, all Affidavits to be produced, read or made Uſe of before any of the Prothonotaries of this Court, upon Taxation of Coſts, and other Matters to them referred, be filed by the Secondaries in the reſpective Prothonotary's Offices. (*a*)

J. Willes, *Alex. Denton*, } { *J. Comyns*, *J. Forteſcue A.*

The ſame Term, 1737.

Attachments of Privilege.

II. IT is Ordered, That from and after the laſt Day of this Term, every Attorney of this Court, who ſhall ſue out any Attachment of Privilege againſt any Defendant, ſhall leave a *Præcipe* at the Prothonotary's Office, with the Defendants Names, not exceeding four in the whole, with the Return-Day thereto, and the Day of Signing the ſame, together with the Agent's or Attorney's Name who ſues out the ſame; and that all and every ſuch *Præcipe* ſhall be entered by the Prothonotaries, upon a Remembrance-Roll in their reſpective Offices, to be kept for that Purpoſe, without Fee or Reward; and that the Prothonotaries do not ſign any Attachment of Privilege without ſuch *Præcipe* be left in the Office at the Time of Signing thereof.

J. Willes, *Alex. Denton*, } { *J. Comyns*, *J. Forteſcue A.*

The ſame Term, 1737.

Forejudger.

III. IT is Ordered, That from and after the laſt Day of this Term, where any Bill ſhall be filed againſt any Attorney of this Court, no Forejudger ſhall be entered againſt him, upon ſuch Bill, for want of Appearance, if the Action be laid in *London* or *Middleſex*, and ſuch Attorney reſide within twenty Miles of *London*, until four Days after Notice in Writing of filing ſuch Bill be given to ſuch Attorney, or his Agent, or left at his uſual Place of Abode, and a Rule given for ſuch Appearance as uſual; and if ſuch Attorney reſides above twenty Miles from *London*, or the Action be laid in any other County than *London* or *Middleſex*, then no Forejudger ſhall be entered till eight Days after ſuch Notice ſhall be given in ſuch Manner as aforeſaid, and a Rule to appear as aforeſaid; the ſaid Days to be excluſive of the Day of giving ſuch Notice. (*b*)

J. Willes, *Alex. Denton*, } { *J. Comyns*, *J. Forteſcue A.*

Trin. 13 Geo. II. 1739.

Coſts on not executing Enquiry.

I. IT is Ordered by the Court, That from and after the laſt Day of this Term, where Notice is given of the Execution of a Writ of Enquiry and not countermanded in time, the Defendant ſhall be intitled to Coſts from the Plaintiff for not executing ſuch Writ of Enquiry, in the ſame Manner, as a Defendant by the Courſe of the Court, is now intitled to Coſts from a Plaintiff, who does not proceed to the (*c*) Trial of an Iſſue joined after Notice given.

J. Willes, *Alex. Denton*, } { *J. Forteſcue A.* *W. Forteſcue.*

The ſame Term, 1739.

Poſteas and Inquiſitions.

II. IT is Ordered by the Court, That from and after the laſt Day of this Term, where final Judgment ſhall be ſigned upon *Poſteas* or *Inquiſitions* upon Writs of Enquiry, ſuch *Poſteas* or *Inquiſitions* ſhall immediately be left with the Clerk of the Judgments of the reſpective Prothonotaries and ſhall not afterwards be taken out of the Office without Leave of the Court. (*d*)

J. Willes, *Alex. Denton*, } { *J. Forteſcue A.* *W. Forteſcue.*

(*a*) *Trin.* 2 *W.* & *M. reg.* 2. (*b*) *Trin.* 21 *Car.* II. *reg.* 2. (*c*) *Mich.* 3 *Geo.* I. *Mich.* 1654. *ſeſſ.* 21. (*d*) *Trin.* 29 *Car.* II. *reg.* 5.

Notice fixed up in the Offices.

Notice of Bill filed against an Attorney.

III. THE Form of Notice of a Bill filed against an Attorney.

In the Court of Common Pleas *at* Westminster, *between* A. B. *Plaintiff and* C. D. *one of the Attornies of the said Court, Defendant.*

Take Notice, that a Bill of —— *Term is filed against you in Mr. Prothonotary* —— *Office, at the Suit of the Plaintiff above-named, in an Action of Trespass upon the Case upon several Promisses* (or as the Cause is) *to the Damage of* 20*l. and unless you appear thereto within* —— (a) *Days* (four or eight Days, as the Case requires) *a Forejudger will be entered against you, Dated the* —— *Day of* ——

To Mr. *C. D.* the Defendant. — *E. F.* Attorney for the Plaintiff.

Easter, 13 Geo. II. 1740.

Affidavits.

I. *WHereas by the General Rule and Practice of this Court, Affidavits taken before Attornies (as Commissioners) in Causes wherein they are concerned for the Parties in whose Behalf such Affidavits are made, have been deemed insufficient.*

And whereas some Doubt hath arisen, whether such Rule and Practice should extend to Affidavits, made in Order to hold Defendants to Bail, before Process sued out, or to Affidavits of Service of Process where only a Common Appearance is required: In Order to settle the the Practice for the future,

It Ordered by the Court, That from and after the fifth Day of *May* in this present Term, all such Affidavits to hold the Defendant to Bail, or of the Service of Process where only a Common Appearance is required, may be sworn before the Plaintiff's Attorney being a Commissioner, and may be made use of for the Purposes aforesaid.

J. Willes. } { *W. Fortescue.*
J. Fortescue A. } { *T. Parker.*

The same Term, 1740.

Notice of Trial.

II. *WHereas by the antient* (b) *Rule of this Court in all Causes, in which there have been no Proceedings for above a Year, the Party who desired to proceed again, must give a Term's Notice to the other.*

And whereas some Doubts have arisen on the Construction of this Rule; to ascertain the same for the future, It is Ordered by the Court, That from and after the last Day of this Term, in all Cases in which there have been no Proceedings for four Terms, exclusive of the Term in which the last Proceeding was had, the Party who desires to proceed again shall give a Term's Notice to the other, of such Proceeding; that such Notice shall be given before the Essoin-day of the fifth or other subsequent Term; that a Judge's Summons, if no order be made thereupon, shall not be deemed a Proceeding, but that a Notice of Trial, tho' afterwards countermanded, shall be deemed a Proceeding within the meaning of this Rule.

J. Willes. } { *W. Fortescue.*
J. Fortescue A. } { *T. Parker.*

Hil. 14 Geo. II. 1740.

Trials in the Circuits and entering Causes.

WHereas for regulating Trials by Nisi prius *in the Circuits, an Order was made by all the Judges of* England *in Trin. Term, in the* 10*th and* 11*th Years of his present Majesty*, 'That in 'every Cause to be tried before them in their 'respective Circuits, the Writ and Record should 'be entered together, and that no Record should 'be received without the Writ; *which Order hath not fully answered the Intent thereof, but notwithstanding many Inconveniencies do still happen to the Suitors, by delaying, or putting off the Trials of their Causes.*

Now in Order more effectually to prevent these Inconveniences for the future,

It is Ordered by all the Judges of *England*, That no Writ and Record of *Nisi Prius* shall be received at the Assizes in any County in *England*, unless they shall be delivered to, and entred with, the Marshal before the first Sitting of the Court after the Commission day, except in the Counties of *York* and *Norfolk*, and there the Writs and Records shall be delivered to, and entered with, the Marshal, before the first Sitting of the Court, on the second Day after the Commission day, otherwise they shall not be received. And that every Cause shall be tried in the Order in which it is so entred, without any Preference or Delay, unless it shall be made out to the Satisfaction of the Judge in open Court that it is impracticable or inconvenient so to do; who thereupon may make such Order for the Trial of the Cause so put off, as to him shall seem just.

(a) Note; *By the Rule of Court* Hil. 11 Geo. II. reg. 3. *if the Action be laid in* London *or* Middlesex, *and the Defendant resides within* 20 *Miles of* London, *the Notice to appear is to be within four Days; and if the Defendant resides above* 20 *Miles from* London, *the Notice to appear is to be within eight Days.*

Notices may be served upon the Defendant or his Agent, but Forejudgers cannot be signed till four or eight Days (as the Case requires) exclusive of the Day of Notice.

(b) *Reg. Mich.* 1654. *sec.* 21.

And it is further Ordered, That a Liſt of the Cauſes when ſo entered as aforeſaid ſhall be made by the Marſhal, and forthwith fixed up in ſome publick Place in the *Niſi Prius* Court, there to remain during the whole Time of the Aſſizes.

W. Lee., *J. Willes.*, *E. Probyn.*, *F. Page.* } *Law. Carter.*, *J. Forteſcue A.*, *W. Forteſcue.* { *T. Parker.*, *M. Wright.*, *Ja. Reynolds*, *Tho. Abney.*

Trin. 14 & 15 Geo. II. 1741.

Warrants of Attorney.

TO prevent Frauds and Impoſitions in the Execution of Warrants of Attorney for confeſſing Judgments in this Court,

It is Ordered, That from and after the firſt Day of next *Michaelmas* Term, every ſuch Warrant of Attorney ſhall be read over by the Perſon who is to execute the ſame, or by ſome other Perſon to him before the execution thereof; and that if Judgment ſhall be entered up upon any ſuch Warrant of Attorney which ſhall be executed after the firſt Day of next *Michaelmas* Term, and which ſhall not be ſo read over as aforeſaid, ſuch Judgments, upon Motion may be ſet aſide as irregular.

J. Willes., *J. Forteſcue A.* } { *W. Forteſcue.*, *T. Parker.*